E 340
.W4 K62

A

MEMOIR

OF THE

LIFE

OF

DANIEL WEBSTER.

BY SAMUEL L. KNAPP.

"Most men are born only to live and die; but some few live to give an undying fame to their country, and to stamp their image on the age which produced them."

SECOND EDITION.

REVISED AND BROUGHT DOWN TO THE PRESENT TIME.

NEW YORK.

PUBLISHED BY J. S. REDFIELD.

1835.

E340
.W4K62

Entered according to Act of Congress, in the year 1835, by SAMUEL L. KNAPP, in the Clerk's Office of the District Court of the Southern District of New York.

TO

THE LOVERS OF

CIVIL LIBERTY AND CONSTITUTIONAL LAW,—

SUBJECTS

WHICH HAVE BEEN ADVOCATED BY THE

HIGHEST MINDS,

AND MAINTAINED, IN THIS COUNTRY, FOR TWO

CENTURIES,

BY A LAVISH EXPENDITURE OF OUR BEST BLOOD,—

THIS SKETCH

OF THE LIFE OF ONE OF THE MOST CONSISTENT

AND

THE MOST POWERFUL EXPOUNDERS AND DEFENDERS

OF THESE

VITAL PRINCIPLES OF FREEDOM,—

IS RESPECTFULLY DEDICATED

BY THE

AUTHOR.

LIFE

OF

DANIEL WEBSTER.

In a free country, where public opinion sways every thing of a public nature; where men are called from the mass of their fellow-citizens to offices of trust and distinction, and return again to private life, and still are eligible to the same, or new situations; and where there is nothing permanent but a fair, and an honest reputation, it becomes each one, desirous of being able to bear his part properly, to make himself acquainted with men as well as things. It is easier to collect matters for statistical tables, to make geographical surveys, and to ascertain the capacities of rivers and streams; in fact, to get at all the physical resources of a country, than to acquire a scanty knowledge of the intellectual wealth of a people; particularly when they are scattered over such an extent of territory as we are in the United States. Curiosity prompts us to inquire something of the personal appearance of a distinguished individual, something of his age, manner, habits, and disposition; for we do not think entirely in the abstract on any subject. We must see some resemblance to Hercules to be satisfied with the account of his great strength; his colossal frame must accompany our thoughts of his mighty deeds. To wait until men are dead to make ourselves acquainted with their characters, has more modesty than wisdom in it. In this, we should rather be living with the dead, than with the animated, active beings around us; not that we should be ignorant of those who have finished their labors, and who have gone to receive their rewards; who have stamped the by-gone age with their illustrious deeds, or intellectual productions. These should be held in sweet remembrance; but those who are now efficient agents in the affairs of men, should also be our study. If we make a wrong estimate of the dead, it will not do much harm; for those who come after us will correct our opinions and reverse our judgments upon the merits of those who have passed away. But if we are misled in our estimates of the virtues or talents, dispositions or opinions of the living, we may do ourselves an injury by lavishing confidence where it is not deserved, or by withholding it when it should be given. What is meant by a knowledge of human nature, but an acquaintance with the motives, principles, and actions of the living? Our country abounds in rich materials for sketches and memoirs of distinguished men. Some of these memoirs and notices we have had, of our prominent naval, and military, and diplomatic men; and sometimes we have seen a notice of a poet or an orator, but not always drawn with a deep knowledge of the subject, or in an independent spirit.

The memoir of one of our most eminent jurists, statesmen, and orators, was contemplated some time since, and a hasty sketch given to the public. The good feelings shown to that scanty production, which was sent into the world without conference with any one on the subject, or without looking for a single fact not within the recollection of the writer, has induced him to extend his remarks upon the events of the life of Mr. Webster, and upon his labors at the bar, in the halls of legislation, and among his fellow citizens, as occasions called forth his talents.

Daniel Webster was born in the town of Salisbury, situated on the banks of the Merrimack, in the State of New Hampshire, on the 18th day of January, in the year of our Lord, 1782. His father, grand-father and great grand-father, were named Ebenezer, and were descendants of Thomas Webster, an inhabitant of Hampton in that State, as early as 1656, who died in 1715, aged 83, and whose son Ebenezer was one of the grantees of Kingston in 1692, and a settler there about 1700. The father of Daniel Webster was born at Kingston, in 1739; the son of a farmer. He left his father's farm at the early age of eighteen, to serve as a soldier in the wars of 1755. The conflict at that time with the French and Indians was a severe one; and New England, as well as some other colonies, was heavily taxed for provincial troops.

The youthful soldier was selected as one of a distinguished corps, called Rogers's rangers. Major Robert Rogers, a native of Londonderry, in the State of New Hampshire, was authorized by the British Government to raise several companies to range the frontiers in winter as well as in summer, in order to watch the hostile Indians, who often, in the most inclement season, made attacks upon the defenceless inhabitants of the frontiers. The body of troops called the rangers, were taken from the boldest and hardiest of the yeomanry of the land. They were doubly armed, and carried with them snow-shoes and skates for service; and generally made their headquarters at the southern extremity of Lake George. The snow-shoes put them on an equality with their foes; and with their skates they had greatly the advantage of the Indians. Stark, Putnam, and several others, who were distinguished during the revolutionary war, were trained in this school. Some of the well authenticated exploits of this hardy band seem like romance to us at the present day. All along the mountain borders of Lake George, spots are shown where the rangers fought desperate battles in the winter season; sometimes with more than twice their numbers. This corps fought from 1755 to the fall of Quebec, in 1759. They were put foremost in battle by Abercrombie and Amherst; and some of them were sent to assist Wolfe. The youthful soldier was made for a ranger from his corporeal and intellectual powers, which were of a robust order. Rogers states in his journal, that their packs were generally of twice the weight of those commonly carried by soldiers. Many of this band perished in their frontier campaigns; but some of the survivors, who had repelled the foe, at the peace of Aix-la-Chapelle, in 1763, took advantage of this quiet time, and pushed into the wilderness to form settlements. Among them was Mr. E. Webster. He took up his march, and penetrated the forest fifteen miles above the garrison town,—now Concord,—the seat of Government for that State. This new settlement was called Salisbury, after a town of that name in Massachusetts, from which many of the settlers had emigrated. Here the enterprising adventurers set about building up one of those corporations that make up New England; one of those primitive assemblies governed by patriarchal simplicity, and yet with energy and effect. While he and his friends, a handful of sturdy yeomanry, were clearing the land and watching the growth of their crops and their children, the revolutionary storm burst out. They were accustomed to dangers, not to fears. Every possession had been gained by great efforts; and they were prepared to support their property and their liberties with still greater. The soldier of a former war was now called to the command of a company raised in his own town and vicinity; and great confidence was placed in one who had had such experience as a ranger. In 1777, when the alarm was given that Burgoyne was making rapid strides into our territory, having taken Ticonderoga, which had been thought quite impregnable, the militia of New York and New England started at once, and hastened to meet the enemy. Captain Webster was with Stark's force in his spirited and successful engagement with Count Baum, at Bennington, and also at the surrender of Burgoyne. After the peace of 1783, he was elected a member of the Legislature of New Hampshire, and served in both branches of the General Court. In 1791, he was appointed Judge of the Court of Common Pleas, and was on the bench for several years. Judge Webster was a man of strong sense; and, although his education was, of course, in that age limited, yet he was well acquainted with the Constitution of the States, and the laws of the land as they affected the great question of rights and duties of freemen; and his opinions were held in great respect by his neighbors,—and a neighborhood is a very extensive circle in a new country. In the latter part of his life, Judge Webster found leisure for reading, of which he was very fond. His society was sought by all the intelligent men around him, for he excelled in conversation. He died at the age of sixty-seven, in 1806.

The maiden name of Daniel Webster's mother was Eastman; she was a native of Salisbury, in Massachusetts, a woman of intellect, piety, and good affections,—loved and respected in her neighborhood and venerated by her children. She had three sons and two daughters, and was their primary instructer in the elements of letters. With the true feelings of a maternal heart she watched the growth of her sons; and with that inspiration, which Heaven often vouchsafes to a mother to reward her for her anxieties and pains, she prophesied their future distinction; and, more happy than many, she lived to see the prophecy fulfilled.

In the neighborhood of Salisbury, in the town of Boscawen, there resided a clergyman, who possessed the soul of the man of Ross, and as the inhabitants of the surrounding country were too happy in *their* possessions from their industry, to require him to *apportion maids, or apprentice orphans*, if he had possessed the means, still there was a way for him to be quite as useful, in dispensing the blessings of education This man was the Rev. Samuel Wood, D. D., who added to an ardent love of learn-

ing, great industry and patience. Hundreds of those who were striving for an education, received his instruction gratuitously, and many of them shared his hospitable table without remuneration, or a wish for it on his part. He is still living, with the same noble disposition, if his age does not admit of the same exertions. This good man saw the promising talents of the subject of this memoir, and recommended his father to send him to college. For this purpose, the son was sent to Exeter academy, in his native state. This was judicious, for Exeter academy is one of the best literary and scientific institutions in the country. This, with its twin sister, Phillips' Andover academy, was founded and liberally endowed by the Phillips family—a name identified with the literature, science, and theology of the country. The Exeter academy was then, and still is, under the superintendence of Benjamin Abbot, L. L. D., a fine classical scholar, of gentlemanly and affectionate manners; a man admirably calculated for the Principal of such a seminary. Dr. Abbot had the sagacity to discover at once the capacity and talents of his pupil, and used his best exertions to bring him forward, which he did in a very rapid manner. Such men as Wood and Abbot should be remembered with the great teachers of youth,—Milton, Busby, Johnson and Parr, to whom so much credit has justly been given, as instructers of the great minds of England. There is an affectionate connexion between an instructer and his pupil, which lasts through life, if there has been a good understanding in the early days of the aspirant for literary and scientific honors with his director and teacher. '*I taught that boy,*' is the proud reflection of the teacher, when his pupil becomes distinguished; and, I was educated by that celebrated instructer, is the heartfelt response of one, however elevated, whose mind has been properly nurtured, and the luxuriance of whose imagination has been judiciously pruned by the friendly and sagacious care of a kind and intelligent teacher. Mr. Webster has often been heard to express his obligations to Wood and Abbot for their attention to his education. They share his fame, and enhance, while they enjoy his honors.

From this academy, Mr. Webster went to Dartmouth college, an institution which has produced no ordinary share of distinguished men in every walk of life.

There is one feature in the character of that college, which deserves to be mentioned. There was no mannerism—the bane of many seminaries, contracted by the course of studies required there; nor could you tell from the graduate the course of his discipline while a student. After exacting the ordinary requisitions, the mind of each scholar was allowed to take its own bent, without the stamp of a reigning fashion, as common as it is injurious to young men. In Dartmouth college there was no uniformity of coats, caps, or thoughts. The alumni exhibited *a wilderness of free minds*, over whom the alma mater had no other control, than the exactions of a respectful compliance to a few necessary rules in order to secure the ordinary duties of a student. Mr. Webster was distinguished in his class for a general knowledge of all the branches of learning taught in the college, but much more for a bold, strong, independent manner of thinking, and of expressing his opinions. He grappled with authors at that time, not simply to make himself master of what they wrote, but to test their merits by a standard of his own. If such a mind is not always right in its conclusions, it is certainly on the road to truth. The scholars acknowledged his great talents, and the Faculty sanctioned their opinion of his merits. The Professor of Natural Philosophy, Judge Woodward, who lived but three years after Mr. Webster left college, often spoke of him in high terms, and accompanied his remarks with a confident prophecy of his future eminence. "That man's victory is certain,' said the sage Professor, 'who reaches the heart through the medium of the understanding. He gained me by combating my opinions, for I often attacked him merely to try his strength.' The good old Professor was then in the wane of life; but if his struggles with his pupil lacked something of his former energy, (for he was in the prime of life a strong man, and had but few equals in the field of argument,) still there was such a sincerity in his opinions, and so much of his former insight into character remained, that all were prepared to respect and believe his visions of coming days.

On leaving college, Webster went to Fryburgh to take charge of an academy. Here he officiated a year. He discharged his duties faithfully from principle, but his heart was not thought to have been deeply engaged in the business; for his own plans for self-improvement were too vast to permit him to take great delight in toiling to cultivate the minds of others in that stage of knowledge. He was preparing to be an instructer of nations, not of a few of the community in which he lived. Fryburgh is an interior town in Maine, but here he found books and some intelligent society, particularly in the family of the good clergyman of that town. The Rev. William Fessenden, was a pious, well educated man, and was of course fond in his old age, of a youthful, vigorous mind, with a spirit fresh and animated from recent views of nature and man.

It is a fact worth noticing, that many of the great men of New England disciplined

their minds, and made their first earnings as instructers of youth; Dr. Joseph Warren, John Adams, Judge Cushing, Governor Sumner, Judge Parsons, and many others were for a time schoolmasters. It was thought a year or two were well spent in teaching the classics, as teaching roused their recollections, which, in this country too soon fade away in the business of life, for want of a more frequent recurrence to books.

The next season, Mr. Webster returned to his native town, and entered the office of his friend and neighbor, Thomas W. Thompson, a man of taste and talents, then engaged in the profitable course of country business. If Thompson had been in a less absorbing course in his profession, he would have been one of the most elegant scholars of his day. His style was classical, and his manners refined. He had been distinguished as a polite and well grounded scholar at Cambridge, and was a tutor there for several years. The routine of such an office being soon understood, Mr. Webster was desirous of witnessing a more enlarged course of practice; and for this purpose he went to Boston, and put himself under the instruction of Christopher Gore, a distinguished civilian, who was not engaged in common business, but was consulted on affairs of importance, and attended court only in cases which required high acquirements and great powers. His library was extensive, and Mr. Webster sat down in his office to make himself a lawyer on a broad scale. He was then acquainted with the ordinary practice of courts. At this time he made himself master of special pleading; Williams' edition of Saunders had not then appeared. The book was studied, when studied at all, in the old folio edition. Mr. Webster took this up, translated the Latin and Norman French into English, and made an abstract of every case in this book. This gave him a familiarity with the forms of special pleading. This is a necessary science to every lawyer. The subtilty in the method of reasoning found in special pleading had its origin in the Aristotelian philosophy; and if at times justice has been strangled by it, still it has often assisted to bring a subject to its points and bearings, and to give the powers of ratiocination a directness, that could not be expected under the form of a simple negation in reply to numerous allegations. At all events, it was necessary to be known in order to meet those, who by having some knowledge of it were apt to affect a superiority over those who had neglected to make themselves masters of the science. Here, too, he discovered, that a profound knowledge of English History was necessary to make a lawyer, and that law was, in a good degree, an *historical science.*

To this end, he devoted much time to this study, and then he had not the facilities which have since been presented to the reader. David Hume was a deep and learned philosopher, but he does not afford the student so much knowledge of the growth of English law as others have since done. Hume generalized where others have since detailed. Lingard, Turner, Hallam, and others, have saved the student of this day many hours of laborious research, then necessary for those who wished for a proper share of knowledge in the origin and practice of English law.

Mr. Gore having become acquainted with the capacity and acquirements of Mr. Webster, the office relation between them was forgotten, and they stood to each other on the footing of intellectual friends. This was a matter of importance to Mr. Webster, for Mr. Gore was an elegant man. He had been a commissioner under Jay's treaty, and had, in that official situation, resided several years in England. He was lettered and polite, as well as sound and erudite in his profession. If public stations gave him access to the higher circles of society, the dignity and ease of his manners and the graces of his person secured him consideration and respect. He was acquainted with most of the great men of his time, and he communicated his information with so much exactness, discrimination and taste, that his listeners became familiar with them also; and no one profited more by these ready communications than Mr. Webster. No public man in our country has more successfully cultivated this kind of knowledge—an acquaintance with living prominent men—and this for the purpose of knowing how much intellect, and how many the acquirements, requisite for the management of the political and civil world. Not that Mr. Webster has studied, as some do, day and night, the book of English, Scotch and Irish peerages, or penetrated deeply into the heraldry of distinguished commoners through one of the keepers of the office of family honors; but he has been careful to trace the rise and progress of every great mind engaged in any branch of letters or science, or in active life. With the labors of English lawyers and statesmen, he was as familiar before this period, as books could make him; but now he had an opportunity of getting from an intelligent observer what books could not teach.

On finishing his studies for admission to the bar, he was introduced to the court by Mr. Gore with some remarks highly complimentary, prognosticating his future distinction while declaring his present character and acquirements. It was supposed that under the auspices of Mr. Gore and his friends, Mr. Webster would have com-

menced his professional career in Boston. There was a fine field for his growth, but he had made up his determination to return to his native State and cultivate his mind in the quiet of a country life, certainly for a while. He ventured to meet the maxim, that *a prophet is not without honor but in his own country*, and returned to the vicinity of his birth-place to open his office. In this retreat from city life, with a good library, and just business enough to keep up his spirits, he pursued a systematic course of studies, with so much intensity, that his friends became alarmed, thinking his constitution was sinking under the severity of his application to books. At this crisis of his fate, his friends persuaded him to remove to Portsmouth, the commercial city of the State. Here he found a cheerful, intelligent circle of friends, who made his leisure hours pass off happily, and he recovered from his indisposition, as a strong man rises from weariness and exhaustion, the moment he has been refreshed by rest.

Soon after Mr. Webster had opened his office at Boscawen, a trial for murder came on in the county of Plymouth. The court assigned him to defend the prisoner, although the time had not elapsed for his admission as a Counsellor at the Supreme Court of the State. The murder was foul and horrid, perpetrated on an innocent man—a fellow prisoner for debt. They were in the same room. No provocation was given by the sufferer, or none that could in the slightest degree palliate the offence. The fact of killing could not be questioned. The defence, of course, was narrowed to one point—the insanity of the prisoner. There were no proofs of his former insanity, but the malignity of his disposition was well known to all the country around; his Counsel, nevertheless, was not deterred from going on, with all these formidable circumstances to contend with. He argued, that the enormity of the deed, perpetrated without motive, or without any of those motives operating upon most minds, furnished presumptive proof of the alienation of the prisoner's mind; and even the cool deliberation and apparent serenity which he exhibited at the time the deed was done, were proofs that reason was perverted and a momentary insanity had come over him. The Advocate astonished the court and jury and all who heard him, by his deep knowledge of the human mind. He opened all the springs of action and analyzed every property of the mind so lucidly and philosophically, that it was a new school for those who heard him. He showed the different shapes insanity assumed from a single current of false reasoning upon a particular subject, while there is a perfect soundness of mind on every other subject, to the reasoning aright upon wrong premises, and to the reasoning wrong upon right premises, up to those paroxysms of madness, when the eye is filled with strange sights, and the ear with strange sounds, and reason is entirely dethroned. As he laid open the infirmities of human nature, the jury were in tears, and the bystanders still more affected; but common sense prevailed over argument and eloquence, and the wretch was convicted and executed. Notwithstanding the fate of the murderer, the speech lost nothing of its effect upon the people. It was long the subject of conversation in every public place, and is often mentioned now with admiration. The path of a lawyer is never strewed with flowers; he must be constantly harnessed for the contest, and he often contends with fearful odds, and cannot choose his cause, or his client, or his witnesses. To discharge his duties properly he should have hardihood, tact, talents and learning, with readiness, patience and forbearance. In this new situation at Portsmouth, Mr. Webster was encompassed with shrewd and powerful men. Among these were two gentlemen very much distinguished in their profession. Mr. Mason from his eminent talents and skill in the management of causes had acquired an extensive practice. He was witty, sarcastic, argumentative and persevering, and therefore a most powerful antagonist. Judge Smith, who resided in a neighboring town, about this time returned to the bar, after having been Chief Justice of the State. He was one of the best read lawyers in New-England, and also a fine classical scholar. His speaking at the bar was easy, fluent, playful or severe, as the occasion required. His opinions passed for law with the court and jury, and the weight of his character was felt in every cause in which he was engaged. With these and others of eminence, Mr. Webster had to contend at an age when most young lawyers are preparing themselves for future labors in minor causes and in inferior courts. Mr. Webster did not rely on his eloquence for success, but prepared himself with great industry and care. He secured the jury by a clear statement of his case, and always used such plain language, that they could not misunderstand him; they thought it was just such as they would have used, had they been called to tell the same story, not knowing how difficult it is to reach such a style of communicating our thoughts. Not two years had elapsed before he was considered among the first jury lawyers of the country. The elder practitioners now sharpened their wits to take the lead of him in the law arguments to the bench. In this they were disappointed, for he was at home there also. He argued his cause to the court with as much clearness and force as he had done with the jury. His mind, naturally logical, seized the strong points in a law case, and he pushed his reasonings home to the understandings

of the judges. His seniors at the bar now found it was better to divide the empire with him than to dispute it. These great men soon became his cordial friends, and are now amongst his warmest admirers and eulogists.

It was natural, that one so well fitted for public life should feel some desire to try his fortune in politics, at least so far as to measure his strength with those of other men, who had gained reputation in the halls of legislation. He began well; the times were stormy; war hung over us; party spirit was full of bitterness in every part of the country; sound and fury took the place of fair discussion, and rancorous feuds were in every town and village, but Mr. Webster entered into none of them. He was decided, firm and straight-forward. No politician was ever more direct or bold; he had nothing of the demagogue about him. Fully persuaded of the true course, he followed it with so much firmness and principle, that sometimes his serenity was taken by the furious and headstrong as apathy; but when a fair and legitimate opportunity offered, he came out with such strength and manliness, that the doubting were satisfied, and the complaining silenced. In the worst of times and in the darkest hour he had faith in the redeeming qualities of the people. They might be wrong, but he saw into their true character sufficiently to believe, that they never would remain permanently in error. In some of his conversations upon the subject, he compared the people in their management of the national affairs to that of the sagacious and indefatigable raftsmen on his own Merrimack, who had falls and shoals to contend with in their course to the ocean—guiding fearlessly and skilfully over the former—between rocks and through breakers, and when reaching the sand banks jumping off into the water with lever, axe, and oar, and then with pushing, cutting and directing, made all rub and go to the astonishment of those looking on. The first halo of political glory that hung around his brow was at a convention of the great spirits in the county of Rockingham, where he then resided, and such representatives from other counties as were sent to this convention to take into consideration the state of the nation, and to mark out such a course for themselves as should be deemed advisable by the collected wisdom of those assembled. On this occasion, an address and a string of resolutions were proposed for adoption, of which he was said to be the author. They exhibited uncommon powers of intellect and a profound knowledge of our national interests. He made a most powerful speech in support of these resolutions; portions of which were reprinted at that time, and which were much admired in every part of the Union. From this time he belonged to the United States, and not to New Hampshire exclusively. Massachusetts seemed to take as deep an interest in his career as his native State.

Not far from this period, a traveller passing through Portsmouth, when some election was near at hand, when at the inn it was announced over the dinner table, that Mr. Webster was to speak at a caucus that evening. This news ran from one part of the town to another, and all were enthusiastic at hearing that Mr. Webster was to speak. The gentleman's carriage came to the door, and he was about to get into it, when the hostler said, 'Sir, are you going to leave the town? Mr. Webster is to speak to-night.' The gentleman finding all classes so much delighted to hear that Mr. Webster was going to speak, ordered his horses to the stable, and put off his journey until the morrow. At early candlelight he went to the caucus room; it was filled to overflowing; but some persons seeing that he was a stranger gave way, and he found a convenient place to stand; no one could sit. A tremendous noise soon announced that the orator had arrived; but as soon as the meeting was organized, another arose to make some remarks upon the object of the caucus. He was heard with a polite apathy; another and another came, and all spoke well; but this would not do, and if Chatham had been among them, or St. Paul, they would not have met the expectations of the multitude. The admired orator at length arose, and was for a while musing upon something, which was drowned by a constant cheering; but when order was restored, he went on with great serenity and ease to make his remarks, without apparently making the slightest attempt to gain applause. The audience was still, except now and then a murmur of delight, which showed that the great mass of the hearers were ready to burst into a thunder of applause, if those who generally set the example would have given an intimation that it might have been done; but they, devouring every word, made signs to prevent any interruption. The harangue was ended; the roar of applause lasted long, and was sincere and heartfelt. It was a strong, gentlemanly, and appropriate speech, but there was not a particle of the demagogue about it; nothing like the speeches on the hustings, to catch attention. He drew a picture of the candidates on both sides of the question, and proved as far as reason and argument could prove, the superiority of those of his own choice; but the gentleman traveller, who was a very good judge, has often said that the most extraordinary part of it was, that a promiscuous audience should have had good sense enough to relish such sound, good reasoning, in a place where vague declamation generally is best received. As the traveller went on to the East, he found

the fame of the speech had preceded him, and was talked of in every bar-room and at every public table.

In the year 1812, Mr. Webster was elected a representative to Congress from the State of New Hampshire. The election in that State is by general ticket. He came to his duties with a high reputation as a politician, although he had never been a member of any Legislature. It was well known that he had made himself acquainted with all the rules and orders of a deliberative body; not only the ordinary routine of business, but the reasons on which these rules are founded were familiar to him. Hatsell was thoroughly studied, and all the other writers upon the subject from his time. It is often the case, that young members of Congress know but little of rules and orders, which in debate takes much from their ease and confidence.

The war had been declared before he reached the halls of Congress, and his situation was indeed a difficult one. National credit was shaking in the wind, and the public treasury nearly exhausted, when the Secretary of that department suggested the necessity of a bank, to revive the finances of the country. Mr. Webster saw a train of evils in the plan which was submitted to Congress, and in its passage through the House he proposed that the bill should be sent to the committee that reported it, with instructions to make several amendments, which were offered by him. These amendments changed the character of the bill in all its essential features, but the prominent changes proposed were, that the bank should never suspend specie payments, nor be obliged to loan more to the Government than might be found convenient. The amendments did not pass, but his arguments in favor of them served to defeat the bill, which was done on a third reading, the same day. The speech of Mr. Webster is remarkable for a profound knowledge of the principles on which the banks of the Old World had been founded, and a thorough history of their proceedings; and his arguments against this plan were overwhelming. He showed the evils of a circulating medium not founded on the basis of the precious metals, and unsupported by the revenues of the nation. He exposed the dangers of giving an institution the power of suspending specie payments at will, and thereby destroying public credit. The treaty of Ghent soon followed, and public credit was in some measure revived; but still there was an evil in collecting the public revenue, which in 1816, called loudly for a remedy. The paper of banks much under par was taken at the Treasury office, and this upon the arbitrary decision of the Secretary of the Treasury; selecting the bills of some banks and refusing those of others. Mr. Webster introduced some resolutions and made an able speech on this subject. His own constituents, and in fact all New-England, were paying, and had paid in specie, or bills equivalent to it. The nation opened their eyes to this great injustice, and the evil was remedied.

Mr. Webster having served four years in Congress, found that he could not leave his profession any longer, but must devote himself to it, to support a growing family. He had, while at Washington, measured his strength with the first minds in the country, and felt that he had nothing to fear from superiority. His fame was all hard earned; he did not rise on the surges of party commotion. He was in the minority, but secured the respect of the majority by pursuing an upright course. He never opposed them when he thought they were right, nor feared them when he believed them to be wrong. He made no attacks merely to show his strength, but only to vindicate himself and his friends when they were assailed. No one has shone in Congress with such a regular brightness, from the hour he first joined in the debates of that body, until the day of his departure from the capitol.

His labors were not confined to the House of Representatives alone, for he was engaged in the Supreme Court of the United States, in most of the important subjects discussed before it. Here he came in contact with many of the great lawyers of the day. William Pinkney was then in the full blaze of his glory. The fame of his eloquence had gone abroad into all lands. Senators hung upon his lips with rapture, and sage judges listened to him whole days with pleasure. Mr. Wirt was there also; he occupied a large space in the eyes of the court and of the nation. His eloquence is of the most fascinating kind; it convinces, persuades and delights: but Mr. Webster stood among these and others—Ogden, Jones and Sargeant, men of first rate minds, unaffected by comparison or rivalry. Perhaps no practitioner at this bar ever stood higher in the opinion of the court than Mr. Webster. This is the most dignified body that ever a lawyer argued before. All is still and solemn; there are no equivocating witnesses to manage—no sharp retorts from struggling Counsel to encounter, no whipping one's-self into pathos to call up the sympathies of the soft-hearted juryman; but every word is addressed to men whose passions have subsided, and who are only reached through the medium of the understanding. The lovers of trick here have no chance of displaying their art, nor the pertinacious brow-beater his impudence. Every thing around the advocate is formed to inspire respect for himself and the court.

On returning from public life, Mr. Webster found his pecuniary interests had suffered from his long absence from the courts, and his friends were disposed to believe, that Boston would be a much better place for him than Portsmouth. He had already become identified with the interests of the commercial metropolis of New-England, and many of the opulent merchants were ready to employ him. He was induced to believe, that he ought to remove, and he did remove in 1817. Boston was then the residence of some of the first lawyers of the nation. Dexter was living, and as an advocate seemed to be acknowledged without a rival in New-England. Prescott, one of the most learned and prudent lawyers of his age had removed from Salem some half dozen years before to Boston, and was engaged in all the commercial causes before the courts. These men were much his seniors, but there was a considerable number of those near his own age who, eminent in the profession,—Sullivan, Shaw, Gorham, Hubbard and others of the same class,—were active in the courts, and had as much business as they could attend to. There seemed to be but little room for another in the upper row of lawyers. In the lower courts of the Temple of Themis, adventurers are every day crowding onward; to the upper it is hard to gain access, but Mr. Webster seemed to walk in as a matter of course; some staring, but no one venturing to question his right to be there. In a few months his name was found as senior Counsel in many important causes, and he felt as if it was his birth-place. His practice was not confined to the county of Suffolk, but extended to the neighboring counties of Essex, Middlesex, Norfolk, Plymouth, and still further. His powers as an advocate and a lawyer were at once conceded, though some found fault with his manners at the bar, as severe and sharp; this, however, was soon forgotten in the admiration that every where followed him. It was in vain for his rivals, if any he had, to hold out in any fair opposition to him, for the great mass of the people were with him, and in an intelligent community their power is irresistible.

Soon after Mr. Webster was settled in Boston, he was called to the county of Essex, to defend two prisoners by the name of *Kenniston*. They were charged with having robbed a Major Goodrich, in that county, on the evening of the 19th of December, 1817. The public had been much agitated by this event. The Major had distinguished himself when the British landed at Bangor, in Maine. He was also in good credit in that place. The circumstances of the robbery as stated by him were singular. It was alleged to have taken place early in the evening, in Newbury, on the main post-road from Portsmouth to Boston. The Major was shot through the palm of the left hand, between the third and fourth fingers. The wound was small. Some of the money said to have been taken from his person was found on the ground, to which he stated he had been carried for the purpose of effecting the robbery without noise. Some slight marks of the point of a penknife were found on his body. He had with great difficulty made his way to the nearest public house, apparently in a state of delirium. Shortly after this, he implicated the landlord of the inn as an accomplice in the robbery; but before proceeding against him,—for this was rather a fearful business, as the man had many friends,—he had heard that the Kennistons were within a short distance of the place on the night of the 19th. They were ignorant beings, without character for intellectual capacity or moral honesty: they had the day before the robbery come from their home in New-Hampshire to the town of Newburyport, and were wandering about that night separately for amusement, and when arrested on suspicion, could not prove exactly how they had passed the evening, and probably hardly knew. Goodrich swore, that he believed these men were a part of the gang that robbed him, and they were sent to prison, of course, as bail could not be obtained by them under such charges. Goodrich, with several assistants, repaired straightway to the domicile of the Kennistons, and on searching the premises found gold and bills (which he said had been taken from him) in the pocket of a pair of pantaloons, and also under a pork barrel. The guilt of the prisoners seemed irrevocably fixed—the sympathies of the public were highly excited in favor of Goodrich, and he was going on triumphantly to convict the prisoners, when some singularities of his story gave rise to suspicions, that all was not right. A few were determined that the prisoners should be well defended, and the whole matter thoroughly investigated; and for this purpose Mr. Webster was engaged to be of Counsel in the defence. When he came to the court, he was not apprized of the ground of the defence, on which the prisoner's counsel intended to rely, namely, that it was a sham robbery. He was startled at the suggestion when it was first made, but patiently hearing a detailed account of all the circumstances which had led to this conclusion that this was the right defence, he, after weighing them thoroughly, made up his opinion that there had been no robbery, and directed the junior counsel so to open the defence. He had never argued a cause before in the county of Essex. Goodrich had many respectable connexions in the county. He was born at Danvers, a town

within the limits of the county. His connexions and friends were good, honest people, and had no suspicion of any foul play in the affair. They flocked from affection and curiosity to the trial. The nature of the defence was not known, except to a few, before it was opened. The Solicitor General proved the robbery and guilt of the prisoners to the satisfaction of all in the court-house. The cross-examination by Mr. Webster was terrific. He fixed his eyes upon Goodrich, and put his questions with such adroitness and force, and with such a heavy solemn tone of voice, that in less than ten minutes he had made several palpable contradictions in his testimony. This advantage was followed up with great skill, and before the prosecutor had left the stand, public opinion was decidedly against him. The argument of Mr. Webster followed; it was convincing, conclusive, unanswerable. He seized the strong points of the defence, and handled them with a giant's power. The prejudices against the Kennistons were removed, and a weight of moral guilt thrown on the prosecutor that has never been removed to this day. The Solicitor General was at once convinced by the argument he had heard, that Goodrich was a self-robber, but he struggled manfully against his own convictions and the impressions of the jury, and in fact of the audience; for in such instances there is an influence in the looks of the audience which often reaches the jury-box, and sometimes the bench of justice. The judge who sat in the cause, was a distant relation of the Major's, but he tried it with great fairness and independence. His charge to the jury was lucid and impartial, and the result was an acquittal of the prisoners. The people of Essex are among the most enlightened portions of the United States, but they are, like all enlightened people, of a *mercurial temperament*, and the current of their feelings set against the prisoners; but this current was met and turned by the arguments addressed to their understandings. There was no appeal to their sympathies for these imbecile, humble and pitiable beings: the single question presented was, are they, or are they not guilty? The triumph of truth and talents was complete. The eyes of the audience were riveted on the advocate while he was speaking, and followed him when he left the court-house. This was the first argument of importance he had made in his newly adopted State.

In the year 1818, Mr. Webster was engaged in the Dartmouth College case, which had made a great excitement in New England. In 1816, the Legislature of New-Hampshire, believing that the right of altering or amending the charter of this college, which had been granted by the king previous to the revolution, was vested in them by the constitution of the State, proceeded to enlarge and improve it. This act was not accepted nor assented to by the trustees of Dartmouth College, and they refused to submit to it any further than they were compelled to do so by the necessities of the case. The new institution, called by the act of the Legislature 'The Dartmouth University,' went into operation, as far as existing circumstances would permit. There were two Presidents, two sets of Professors in the same village, and of course, no good fellowship between them. The students generally took side with the college party, a few only going over to the university. It was a very uncomfortable state of things. The Faculty of both institutions were highly respectable, and capable of building up any literary and scientific seminary, had they been under different auspices. The lawyers were consulted, and the most distinguished of them, Smith, Mason, and Webster were of the opinion, that the act of the Legislature of New-Hampshire was unconstitutional, and of course not valid. It was conceded, that there were many difficulties in the case; but it was indispensable, that the question should be decided, that one of the institutions might survive the quarrel. The records, charter, and the evidence of the college property, were in the hands of the new treasurer, and an action of trover was brought by the trustees of Dartmouth College to recover them. The facts were agreed on. The question 'whether the acts of the Legislature of New-Hampshire of the 27th of June, and of the 16th and 18th of December, 1816, are valid and binding on the rights of the plaintiffs, *without their acceptance or assent?*'

It was a great constitutional question. The people of Massachusetts took as deep an interest in it as those of New-Hampshire. The cause was ably argued before the Supreme Court of New-Hampshire, and the opinion of the court was given by Chief-Justice Richardson, in favor of the validity and constitutionality of the acts of the Legislature, and judgment was accordingly entered up for the defendant. Thereupon, a writ of error was sued out by the plaintiffs in the original suit, and the cause removed to the Supreme Court of the United States. In March, 1818, the cause was argued before all the judges, by Mr. Webster and Mr. Hopkinson for the plaintiffs, and by Mr. Holmes and Mr. Wirt for the defendant in error. The anxiety of the parties, the great constitutional principle involved, the deep interest felt by every lawyer in the country in the decision of the question, gave more notoriety to the cause than to any ever brought before that august tribunal. Some were apprehensive that the court would evade the question in some way or other. Mr. Webster had no

such fears. He knew the judges well enough to believe, that while they were not anxious to meet constitutional questions, whenever they were fully brought before them the subject would be most solemnly considered and as fearlessly decided. The question was argued on both sides with great ability. The counsel were men of research, and their reputations were in the case, for it was well known whatever way it was decided, it would form a leading case. Mr. Webster came to his work fully possessed of all the views that could be taken of the subject, and he sustained and increased by this argument the reputation he had acquired as a profound constitutional lawyer. The judgment of the State court was reversed—the acts of the Legislature declared null and void as being unconstitutional. The University disappeared, the college rose with new vigor, and the people of New-Hampshire acquiesced in the decision, and a great portion of the thinking people of the country considered it as a new proof of the wisdom and strength of the constitution of the United States.

In 1820, the people of the commonwealth of Massachusetts thought it was time to revise their State constitution. There were some things in it which required amendment, particularly the oath of attachment and adherence to the independence of the commonwealth, and the adjuration of allegiance to all foreign princes and potentates whatsoever, wore not a little of the drapery of revolutionary suspicion; and, as the letter of the oath was construed, it was supposed to extend to the exclusion of all Catholics from every office under the government of the commonwealth. It was also thought that the number of representatives which the towns had a right to send was far too many for prompt and sagacious legislation. In fact forty years had passed away since the old constitution was formed, and a free people wished to come together to discuss the blessings of liberty, and to examine their charter and see if there were not some amendments to be made. This was natural, as for the lord of the manor to examine his grounds, or the miser to count his gold. The convention was large, composed of all classes of that enlightened community. The distinguished statesmen, of course, were in that body; lawyers, who had not become statesmen, were there also. Clergymen, who had never before departed from the duties of their parish and the care of souls, found themselves in this great body, they hardly knew how—ready to assist in revising the constitution; and medical men, whose field of fame had been in the lecture-room, or in the anatomical theatre, or in the walks of the hospital, now found themselves collected with others to amend the constitution. Indeed, men of all pursuits in life were congregated for the purpose of discussing the best model of a republican constitution. For weight, talents, acquirements, moral worth and political science, this body was superior to any one ever assembled in New England. Their first act, was one of duty and gratitude; this was in electing the venerable John Adams, of Quincy, to preside over their deliberations. The old constitution was from his pen. He declined the appointment, and the accomplished Chief Justice of the Commonwealth, Isaac Parker, was chosen in his place. Look over the hall which way you would, and virtue, genius, experience, clustered in every quarter. *Here*, were heads silvered with age,—*there*, bosoms swelling with patriotism, and every where tongues of fire to pour out the tide of eloquence. To the republican philosopher it was a sight full of pleasure and pride. The youths of the land gazed with wonder on the scene, and as they had venerated each as individuals, they now almost adored the collected whole. No man looked upon the assembly with a keener eye and a deeper feeling than the Nestor of the convention—Adams. Some of his compatriots were there; many of a succeeding generation were there; but the actors were men of a third generation. He had known but a few of the last, and was delighted to find so much character and intelligence among them. The improvements of the age were all familiar to them. From the loop-holes of retreat, in sound health, he had watched the advancements in knowledge in the old world, and he was delighted to find his young countrymen had marched onward with equal step. He had no fears for the result of their deliberations; the seal of freedom and the stamp of knowledge were set too deeply to be injured by any new feelings or reasoning, nor had he any apprehension for their heads or hearts, as he was delighted in numbering, measuring or gauging, the capacities of his younger countrymen. He considered Mr. Webster as decidedly the great man of this assembly, and with his usual openness avowed his opinion; it was the general opinion, and freely acknowledged by all. On almost every subject, Mr. Webster was necessarily called out, and acquitted himself with honor; but there were some questions agitated in that assembly in which he took a very conspicuous part. On the resolution relative to the oaths of office, Mr. Webster made a speech full of sound sense; he advocated the principle, that the people had a right to insist on a declaration of a belief in the Christian religion from those who accepted offices, as offices were the gift of the people, and not a matter of right; still he did not think the requisition absolutely necessary, or essential, as the

people were fully guarded in this respect by the very general belief in the Christian religion in the community.

'It is obvious,' said Mr. Webster, 'that the principal alteration proposed by the first resolution, is the omission of the declaration of belief in the Christian religion, as a qualification for office, in the cases of the governor, lieutenant-governor, counsellors, and members of the Legislature. I shall content myself on this occasion with stating shortly and generally, the sentiments of the select committee, as I understand them, on the subject of this resolution. Two questions naturally present themselves. In the first place, have the people a right, if in their judgment the security of their government and its due administration demand it, to require a declaration of belief in the Christian religion, as a qualification or condition of *office?* On this question, a majority of the committee held a decided opinion. They thought the people had such a right. By the fundamental principle of popular and elective governments, all office is in the free gift of the people. They may grant, or they may withhold it at pleasure; and if it be for them, and them only, to decide whether they will grant office, it is for them to decide, also, on what terms, and with what conditions they will grant it. Nothing is more unfounded than the notion that any man has a *right* to an office. This must depend on the choice of others, and consequently upon the opinions of others, in relation to his fitness and qualification for office. No man can be said to have a *right* to that, which others may withhold from him at pleasure. There are certain rights, no doubt, which the whole people, or the government as representing the whole people, owe to each individual, in return for that obedience and personal service, and proportionate contributions to the public burdens, which each individual owes to the government. These rights are stated with sufficient accuracy in the tenth article of the Bill of rights, in this constitution. "Each individual in society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to the standing laws." Here is no right of *office* enumerated; no right of governing others, or of bearing rule in the State. All bestowment of office remaining in the discretion of the people, they have of course a right to regulate it, by any rules which they may deem expedient. Hence the people, by their constitution, prescribe certain qualifications for office, respecting age, property, residence, &c. But if office, merely as such, were a *right*, which each individual under the social compact was entitled to *claim*, all these qualifications would be indefensible. The acknowledged rights are not subject, and ought not to be subject, to any such limitation. The right of being protected, in life, liberty, and estate, is due to all, and cannot be justly denied to any, whatever be their age, property, or residence in the State. These qualifications, then, can only be made requisite as qualifications for office, on the ground that *office* is not what any man can demand, as matter of right, but rests in the confidence and good will of those who are to bestow it. In short, it seems to me too plain to be questioned, that the right of office is a matter of discretion and option, and can never be *claimed* by any man on the ground of obligation. It would seem to follow, then, that those who confer office may annex any such conditions to it as they think proper. If they prefer one man to another, they may act on that preference. If they regard certain personal qualifications, they may act accordingly, and ground of complaint is given to nobody. Between two candidates, otherwise equally qualified, the people at an election may decide in favor of one because he is a Christian, and against the other because he is not. They may repeat this preference at the next election, on the same ground, and may continue it from year to year. Now, if the people may, without injustice, act upon this preference, and from a sole regard to this qualification, and refuse in any instance to depart from it, they have an equally clear right to *prescribe* this qualification beforehand, as a rule for their future government. If they may do it, they may agree to do it. If they deem it necessary, they may so say beforehand. If the public will may require this qualification at every election as it occurs, the public will may declare itself beforehand; and make such qualification a standing requisite. That cannot be an unjust rule, the compliance with which, in every case, would be right. This qualification has nothing to do with any man's *conscience*. If he dislike the condition, he may decline the office; in like manner as if he dislike the salary, the rank, or any thing else which the law attaches to it. However clear the right may be, (and I can hardly suppose any gentleman will dispute it,) the *expediency* of retaining the declaration is a more difficult question. It is said not to be necessary, because, in this Commonwealth, ninety-nine out of every hundred of the inhabitants profess to believe in the Christian religion. It is sufficiently certain, therefore, that persons of this description, and none others, will ordinarily be chosen to places of public trust. There is as much security, it is said, on this subject, as the necessity of the case requires. And as there is a sort of opprobrium—a marking out, for observation and censorious remark, a single individual, or a very few individuals, who may not be able to make the declaration,—it is an act, if not of injustice, yet of unkindness,

and of unnecessary rigor, to call on such individuals to make the declaration. There is also another class of objections, which have been stated. It has been said, that there are many very devout and serious persons—persons who esteem the Christian religion to be above all price—to whom, nevertheless, the terms of this declaration seem somewhat too strong and intense. They seem, to these persons, to require the declaration of that *faith* which is deemed essential to personal salvation; and, therefore, not at all fit to be adopted by those who profess a belief in Christianity merely, in a more popular and general sense. It certainly appears to me, that this is a mistaken interpretation of the terms; that they imply only a general assent to the truth of the Christian revelation, and, at most, to the supernatural occurrences which establish its authenticity. There may, however, and there appears to be, *conscience* in this objection; and all conscience ought to be respected. I was not aware, before I attended the discussions in the committee, of the extent to which this objection prevailed. There is one other consideration to which I will allude, although it was not urged in committee. It is this. This qualification is made applicable only to the executive and the members of the Legislature. It would not be easy, perhaps, to say why it should not be extended to the judiciary, if it were thought necessary for any office. There can be no office in which the sense of a religious responsibility is more necessary, than in that of a judge; especially of those judges who pass, in the last resort, on the lives, liberty and property of every man. There may be among legislators, strong passions and bad passions. There may be party heats and personal bitterness. But legislation is in its nature general: laws usually affect the whole society; and if mischievous or unjust, the whole society is alarmed, and seeks their repeal. The judiciary power, on the other hand, acts directly on individuals. The injured may suffer, without sympathy or the hope of redress. The last hope of the innocent, under accusation, and in distress, is in the integrity of his judges. If this fail, all fails; and there is no remedy on this side the bar of Heaven. Of all places, therefore, there is none which so imperatively demands that he who occupies it should be under the fear of God, and above all other fear, as the situation of a judge. For these reasons, perhaps, it might be thought that the constitution has not gone far enough, if the provisions already in it were deemed necessary to the public security. I believe I have stated the substance of the reasons which appeared to have weight with the committee. For my own part, finding this declaration in the constitution, and hearing of no practical evil resulting from it, I should have been willing to retain it, unless considerable objection had been expressed to it. If others were satisfied with it, I should be. I do not consider it, however, essential to retain it, as there is another part of the constitution which recognises, in the fullest manner, the benefits which civil society derives from those Christian institutions which cherish piety, morality and religion. I am conscious that we should not strike out of the constitution all recognition of the Christian religion. I am desirous, in so solemn a transaction as the establishment of a constitution, that we should keep in it an expression of our respect and attachment to Christianity;—not, indeed, to any of its peculiar forms, but to its general principles.'

There was another impression, which had become quite prevalent in the Convention, among many who formerly were sturdy advocates for an opposite doctrine—namely, that the Commonwealth's senators should be based upon population, as well as the other branch of the Legislature, and that districts should be made upon this principle. Mr. Webster's argument on this article was elaborate and powerful. He entered into the great principles of checks and balances in a political constitution. The argument was warmly opposed by many who might be supposed to be interested on his side of the question. This speech had a most wonderful effect, and many of the members who had been of a different opinion, declared that they were convinced that he was right. In this argument he brought the experience of all times to bear upon the subject so fully and happily, that those who opposed him still, lost much of the zeal with which they had supported the other side of the debate at the commencement of it.

The third prominent speech in this Convention was made upon 'a resolution to alter the Constitution so that judicial officers shall be removable by the Governor and Council upon the address of two-thirds, instead of a majority, of each branch of the Legislature; and that the Legislature have power to create a Supreme Court of Equity and Court of Appeals. The remarks of Mr. Webster were so brief and so compact, and yet so full of sound sense on these subjects, that an extract from the speech would do him injustice, therefore we give it entire.

'Regrets are vain for what is past; yet I hardly know how it has been thought to be a regular course of proceeding, to go into committee on this subject, before taking up the several propositions which now await their final readings on the President's table. The consequence is, that this question comes on by surprise. The chairman

of the select committee is not present; many of the most distinguished members of the convention are personally so situated, as not to be willing to take part in the debate,—and the first law officer of the government, a member of the committee, happens at this moment to be in a place (the chair of the committee of the whole) which deprives us of the benefit of his observations. Under these circumstances, I had hoped the committee would rise; it has, however, been determined otherwise, and I must therefore beg their indulgence while I make a few observations.

'As the constitution now stands, all judges are liable to be removed from office, by the Governor, with the consent of the council, on the address of the two houses of the Legislature. It is not made necessary that the two houses should give any reasons for their address, or that the judge should have an opportunity to be heard. I look upon this as against common right, as well as repugnant to the general principles of the Government. The commission of the judge purports to be, on the face of it, during good behavior. He has an interest in his office. To give an authority to the Legislature to deprive him of this, without trial or accusation, is manifestly to place the judges at the pleasure of the Legislature.

'The question is not what the Legislature probably will do, but what they may do. If the judges, in fact, hold their offices only so long as the Legislature see fit, then it is vain and illusory to say that the judges are independent men, incapable of being influenced by hope or by fear; but the tenure of their office is not independent. The general theory and principle of the Government is broken in upon, by giving the Legislature this power. The departments of Government are not equal, co-ordinate and independent, while one is thus at the mercy of the others. What would be said of a proposition to authorize the Governor or judges to remove a senator, or member of the house of representatives from office? And yet, the general theory of the constitution is to make the judges as independent as members of the Legislature. I know not whether a greater improvement has been made in government than to separate the judiciary from the executive and legislative branches, and to provide for the decision of private rights, in a manner, wholly uninfluenced by reasons of state, or considerations of party or of policy. It is the glory of the British constitution to have led in the establishment of this most important principle. It did not exist in England before the revolution of 1688, and its introduction has seemed to give a new character to the tribunals. It is not necessary to state the evils which had been experienced, in that country, from dependent and time-serving judges. In matters of mere propriety, in causes of no political or public bearing, they might perhaps be safely trusted; but in great questions concerning public liberty, or the rights of the subject, they were, in too many cases, not fit to be trusted at all. Who would now quote Scroggs, or Saunders, or Jeffries, on a question concerning the right of the habeas corpus, or the right of suffrage, or the liberty of the press, or any other subject closely connected with political freedom? Yet on all these subjects, the sentiments of the English judges since the revolution,—of Somers, Holt, Jreby, Jekyl, &c. are, in general, favorable to civil liberty, and receive and deserve great attention, whenever referred to. Indeed, Massachusetts herself knows, by her own history, what is to be expected from dependent judges. Her own charter was declared forfeited, without a hearing, in a court where such judges sat.

'When Charles the second, and his brother after him, attempted the destruction of chartered rights, both in the kingdom and out of it, the *mode* was by judgments obtained in the courts. It is well known, that after the prosecution against the city of London was commenced, and while it was pending, the judges were changed; and Saunders, who had been consulted on the occasion, and had advised the proceeding on the part of the crown, was made chief-justice for the very purpose of giving a judgment in favor of the crown; his predecessor being removed to make room for him. Since the revolution of 1688, an entire new charter has been given to English judicature. The judges have been made independent, and the benefit has been widely and deeply felt. A similar improvement seems to have made its way into Scotland. Before the union of the kingdoms, it cannot be said that there was any judicial independence in Scotland; and the highest names in Scottish jurisprudence have been charged with being under influences which could not, in modern times, be endured. It is even said that the practice of entails did not extensively exist in Scotland till about the time of the reigns of the last princes of the Stuart race, and was then introduced to guard against unjust forfeitures. It is strange, indeed, that this should happen at so late a period, and that a most unnatural and artificial state of property should be owing to the fear of dependent judicatures. I might add here, that the *heritable jurisdictions*, the greatest almost of all evils, were not abolished in Scotland till about the middle of the last century; so slowly does improvement make progress when opposed by ignorance, prejudice or interest.

'In our own country, it was for years a topic of complaint, before the revolution,

that justice was administered, in some of the colonies, by judges dependent on the British crown. The Declaration of Independence itself, puts forth this as a prominent grievance, among those which justified the revolution. The British king, it declares, "had made judges dependent on his own will alone, for the tenure of their offices." It was therefore to be expected, that in establishing their own governments, this important point of the independence of the judicial power would be regarded by the States. Some of them have made greater, and others less provision on this subject; the more recent constitutions, I believe, being generally framed with the most and best guards for judicial independence.

'Those who oppose any additional security for the tenure of judicial office, have pressed to know what evil has been experienced—what injury has arisen from the constitution as it is. Perhaps none;—but if evils probably may arise, the question is, whether the subject be not so important as to render it prudent to guard against that evil. If evil do arise, we may be sure it will be a great evil; if this power should happen to be abused, it would be most mischievous in its consequences. It is not a sufficient answer, to say that we have as yet felt no inconvenience. We are bound to look to probable future events. We have, too, the experience of other States. Connecticut, having had judges appointed annually, from the time of Charles the second, in the recent alteration of her constitution, has provided, that hereafter they shall hold their offices during good behavior, subject to removal on the address of *two-thirds* of each house of the Legislature. In Pennsylvania, the judges may be removed, "for any reasonable cause," on the address of *two-thirds* of the two houses. In some of the States, *three-fourths* of each house is required. The new constitution of Maine has a provision, with which I should be content; which is, that no judge shall be liable to be removed by the Legislature till the matter of his accusation has been made known to him, and he has had an opportunity of being heard in his defence.—This seems no more than common justice; and yet it is much greater than any security which at present exists in the constitution of this commonwealth.

'It will be found, if I mistake not, that there are not more than two or three, out of all the States, which have left the tenure of judicial office at the entire pleasure of the Legislature. It cannot be denied, that one great object of written constitutions is to keep the departments of Government as distinct as possible; and for this purpose to impose restraints. And it is equally true, that there is no department on which it is more necessary to impose restraints than the Legislature. The tendency of things is almost always to augment the power of that department, in its relation to the judiciary. The judiciary is composed of few persons, and those not such as mix habitually in the pursuits and objects which most engage public men. They are not, or never should be, political men. They have often unpleasant duties to perform, and their conduct is often liable to be canvassed and censured, where their reasons for it are not known, or cannot be understood. The Legislature holds the public purse. It fixes the compensation of all other departments: it applies, as well as raises, all revenue. It is a numerous body, and necessarily carries along with it a great force of public opinion. Its members are public men, in constant contact with one another, and with their constituents. It would seem to be plain enough, that, without constitutional provisions which should be fixed and certain, such a department, in case of excitement, would be able to encroach on the judiciary. Therefore is it, that a security of judicial independence becomes necessary; and the question is, whether that independence be at present sufficiently secured.

'The constitution being the supreme law, it follows of course, that every act of the Legislature, contrary to that law, must be void. But who shall decide this question? Shall the Legislature itself decide it? If so, then the constitution ceases to be a *legal* and becomes only a *moral* restraint on the Legislature. If they, and they only, are to judge whether their acts be conformable to the constitution, then the constitution is *admonitory* or *advisory* only; not legally binding; because, if the *construction* of it rests wholly with them, their *discretion*, in particular cases, may be in favor of very erroneous and dangerous constructions. Hence the courts of law, necessarily, when the case arises, must decide upon the validity of particular acts.—These cases are rare, at least in this Commonwealth; but they would probably be less so, if the power of the judiciary, in this respect, were less respectable than it is.

'It is the theory and plan of the constitution to restrain the Legislature, as well as other departments, and to subject their acts to judicial decision, whenever it appears that such acts infringe constitutional limits; and without this check, no certain limitation could exist on the exercise of legislative power. The constitution, for example, declares, that the Legislature shall not suspend the benefit of the writ of *habeas corpus*, except under certain limitations. If a law should happen to be passed restraining personal liberty, and an individual, feeling oppressed by it, should apply for his *habeas corpus*, must not the judges decide what is the benefit of *habeas corpus*, intended

by the constitution; what it is to *suspend it*, and whether the acts of the Legislature do, in the given case, conform to the constitution? All these questions would of course arise. The judge is bound by his oath to decide according to law. The constitution is the supreme law. Any act of the Legislature, therefore, inconsistent with that supreme law, must yield to it; and any judge, seeing this inconsistency, and yet giving effect to the law, would violate both his duty and his oath. But it is evident that this power, to be useful, must be lodged in independent hands. If the Legislature may remove judges at pleasure, assigning no cause for such removal, of course it is not to be expected that they would often find decisions against the constitutionality of their own acts. If the Legislature should unhappily, be in a temper to do a violent thing, it would probably take care to see that the bench of justice was so constituted as to agree with it in opinion.

'It is unpleasant to allude to other States for negative examples; yet, if any one were inclined to the inquiry, it might be found, that cases had happened in which laws, known to be at best very questionable as to their consistency with the constitution, had been passed; and at the same session, effectual measures taken, under the power of removal by address, to create a new bench. Such a coincidence might be accidental; but the happening of such accidents often would destroy the balance of free governments. The history of all the States, I believe, shows the necessity of settled limits to legislative power. There are reasons, entirely consistent with upright and patriotic motives, which, nevertheless, evince the danger of legislative encroachments. The subject is fully treated by Mr. Madison, in some numbers of the Federalist, which well deserve the consideration of the convention.

'There is nothing, after all, so important to individuals as the upright administration of justice. This comes home to every man; life, liberty, reputation, property, all depend on this. No Government does its duty to the people, which does not make ample and stable provision for the exercise of this part of its powers. Nor is it enough, that there are courts which will deal justly with mere private questions. We look to the judicial tribunal for protection against illegal or unconstitutional acts, from whatever quarter they may proceed. The courts of law, independent judges, and enlightened juries, are citadels of popular liberty, as well as temples of private justice. The most essential rights connected with political liberty, are there canvassed, discussed, and maintained; and if it should at any time so happen that these rights should be invaded, there is no remedy but a reliance on the courts, to protect and vindicate them. There is danger, also, that legislative bodies will sometimes pass laws interfering with other private rights, besides those connected with political liberty. Individuals are too apt to apply to the legislative power to interfere with private cases, or private property; and such applications sometimes meet with favor and support. There would be no security, if these interferences were not subject to some subsequent constitutional revision, where all parties could be heard, and justice administered according to standing laws.

'These considerations are among those which, in my opinion, render an independent judiciary equally essential to the preservation of private rights and public liberty. I lament the necessity of deciding this question at the present moment; and should hope, if such immediate decision were not demanded, that some modification of this report might prove acceptable to the committee, since, in my judgment, some provision, beyond what exists in the present constitution, is necessary.'

While Mr. Webster was engaged in the arduous duties of the Convention, he was called, by a voice he could not resist, to again bring himself before the public. This call was from the Pilgrim Society, who were to assemble at Plymouth to commemorate the close of the second century, since the landing of their forefathers, on the 22d of December, 1620; and to usher in the third century with feelings elevated but chastened, and to pour out their hearts in gratitude for the past, while their souls were lighted up with hopes for future generations. The Society had existed for many years, and several judicious sermons and orations had been delivered before that body of men, who wished to keep alive a just remembrance of their ancestors; but never was the excitement among the sons of the pilgrims so great as at this anniversary. Two hundred years had passed away since the event they celebrated, and time-honored monuments were scattered through the country. The nation was at peace with all the world. The trees which the pilgrims once planted had grown great and prolific, and their children alone plucked the fruit. There was no spoiler in the land, and all traces of a hostile foot were obliterated from the soil of their birth-place. The scattered remnants of the red men were now regarded with compassion, not with fear; the aborigines had fallen like autumnal leaves, and no second spring had renewed them. The little cloud, which appeared two centuries ago not bigger than a man's hand on the horizon, had now spread over the whole hemisphere, to refresh the country. The sufferings of the pilgrims could not now be spared; no, not one of them, for they at this period shone as gems in a martyr's crown. No ordinary voice could have sung

the requiem of two centuries: no common hand could have written their epitaphs; and no prophet of partial inspiration could have ventured upon the unborn ages, which crowded on their souls.

The orator came to his task as one prepared,—as one deeply read in the mouldering monuments of his country's deeds. Their acts of peace and of war were in his mind. Their sufferings and their triumphs were all in the possession of his memory; and all, all, were embalmed in his affections. His audience were collected from all quarters, and prepared to hail him as a seer, declaring the past and opening up the future. The past was full of glories. The warrior might have found in it lessons of heroic valor; the philosopher, of wisdom; and the holy man, of piety. The orator had no sectarian views to gratify, no cankering prejudices to indulge, no fancied inferences to make from doubtful records. He stood among them as an enlightened statesman, a lover of his country, that had his whole heart; a country, whose records he held as sacred, whose hopes were connected with the best interests of man. He was there, as every where else, a friend of religion; but not a religious partizan; one who believes, 'that whatever disunites man from God, disunites man from man.' 'Let us rejoice,' said the orator, 'that we behold this day; let us be thankful that we have lived to see the bright and happy breaking of this auspicious morn, which commences the third century of the history of New-England.' He summoned the highest faculties of our nature to connect time and place, to look before and after, and hold communion with our ancestors and our posterity. He called up the *genius of the place* to bring back and put before them the mighty dead, whose graves had first consecrated the soil with *the hopes of the resurrection and the life to come.* He sketched the history of the wanderings of the pilgrims with a master-hand, and pointed out the difference between them and all other colonies of ancient or modern times; their steadfast adherence to the best principles of civil and religious liberty; their commercial enterprizes; their determined courage; and their hardy growth, were described with force and elegance. The war of independence was remembered, and the slave trade attacked, without fearing those who might be offended. The religious character of our fathers was incorporated in all they did, and all they hoped; and the remembrance of it breathes through the whole of this speech.

There was one subject touched upon in Mr. Webster's speech,—the law of succession,—that should be noticed, for it shows a deep knowledge of the effect of our institutions; and what he then hazarded as a conjecture in regard to this law of succession in France, has proved an overwhelming truth in a fifth part of the time he allowed for the political effect it has produced.

Before Mr. Webster took his seat in Congress, from the district of Suffolk, in Massachusetts, the whole American people, with a few exceptions, had espoused the cause of the Greeks. The shrieks which arose from the massacre of Scio had been wafted on every wind, and pierced every heart. The interest was deep and general. The classical man ran over the history of that wonderful people; their beautiful language, and their rich and tasteful literature came all up fresh to his recollections, and he was for repaying Greece the immeasurable debt of ages. The alumni of all our literary institutions, without an exception, were for Greece. The female heart, ready for generous sympathies, caught the infection, and assembled in favor of Greece. Societies were formed in every town and village to aid this brave people in their mighty struggle for freedom. The holy man of the altar, not given to enter into secular affairs, opened his sacred book, and finding countless texts on which to hang a discourse in favor of Christians in bondage, breathed an eloquence, the possession of which was almost unknown to himself, which opened the fountains of charity, and caused them to flow like the rock of Horeb, with sweet and divine waters. The generous, as usual, gave for the suffering Greeks most bountifully; the young child who had no definite idea of duty on the subject, hearing the preacher say that the father of the little Greek boy they had seen, died in the awful fight, and that his mother fell by the assassin's dagger, brought his all to the contribution-box, and was happy when his shining silver was gone,—all gone,—for such a purpose; and the miser struggling between avarice and the sympathy he felt for Greece, (and to him any generous sympathy was new,) let fall for the Greek the bit of gold he had held from every other charity, as with the grasp of death. This is no high-wrought tale; thousands and tens of thousands can bear testimony to this statement, for they have witnessed such scenes. This was not all,—Christian spirits clad with gospel panoply came forward with new-born zeal, and offered their services as missionaries, agents, or any thing else that would benefit the cause. Youthful warriors, fed on the aliment of ancient patriotism, offered their services to gird on their sword, to '*sink or swim, live or die,*' in the cause of freedom and the cross. All hearts yearned towards Greece, and every one wished her well, if he did not express his wishes. Anacharsis was read with new pleasure, and Mitford sought after with avidity, and even Gillie's Greece,

with all its dulness, was in request from the libraries. However prudent the rulers of the nation might have felt in regard to committing themselves with the Greek revolution, the people had no fastidious impressions upon this subject. They expressed, as they always will, as long as they enjoy their present blessings, their whole soul upon the occasion. The tongue of the people may be considered as a '*chartered instrument*,' it speaks right on, and is not often muzzled nor tied. But even men in high places were influenced by public feeling, and Mr. Monroe in his message to Congress, made mention of the struggles of Greece in favor of liberty. On this suggestion, Mr. Webster brought forward a resolution for making provision by law for defraying the expenses incident to the appointment of an agent or commissioner to Greece, whenever the President should deem it expedient to make such an appointment.

These generous sentiments were all seen, known, and felt by the speaker, as is proved by his short exordium.

'I am afraid, Mr. Chairman, that, so far as my part in this discussion is concerned, those expectations which the public excitement existing on the subject, and certain associations easily suggested by it, have conspired to raise, may be disappointed. An occasion which calls the attention to a spot, so distinguished, so connected with interesting recollections, as Greece, may naturally create something of warmth and enthusiasm. In a grave, political discussion, however, it is necessary that that feeling should be chastised. I shall endeavor properly to repress it, although it is impossible that it should be altogether extinguished. We must, indeed, fly beyond the civilized world, we must pass the dominion of law, and the boundaries of knowledge; we must, more especially, withdraw ourselves from this place, and the scenes and objects which here surround us, if we would separate ourselves, entirely, from the influence of all those memorials of herself which ancient Greece has transmitted for the admiration and the benefit of mankind. This free form of government, this popular assembly, the common council, held for the common good, where have we contemplated its earliest models? This practice of free debate, and public discussion, the contest of mind with mind, and that popular eloquence, which, if it were now here, on a subject like this, would move the stones of the capitol,—whose was the the language in which all these were first exhibited? Even the edifice in which we assemble, these proportioned columns, this ornamented architecture, all remind us that Greece has existed, and that we, like the rest of mankind, are greatly her debtors. But I have not introduced this motion in the vain hope of discharging any thing of this accumulated debt of centuries. I have not acted upon the expectation, that we, who have inherited this obligation from our ancestors, should now attempt to pay it to those who may seem to have inherited, from *their* ancestors, a right to receive payment. My object is nearer and more immediate. I wish to take occasion of the struggle of an interesting and gallant people, in the cause of liberty and Christianity, to draw the attention of the House to the circumstances which have accompanied that struggle, and to the principles which appear to have governed the conduct of the great States of Europe in regard to it; and to the effects and consequences of these principles upon the independence of nations, and especially upon the institutions of free Governments. What I have to say of Greece, therefore, concerns the modern, not the ancient; the living and not the dead. It regards her, not as she exists in history, triumphant over time, and tyranny, and ignorance; but as she now is, contending against fearful odds, for being, and for the common privilege of human nature.'

He spends but little time on these things, however congenial and lovely they may be to him. He stops not to view the groves of the academy, the fountains of inspiration, nor the mountains where rang the songs of the never-dying Muse. Neither the wisdom of Socrates, nor the justice of the Areopagus, nor even the eloquence of Pericles, or Demosthenes, detain him for a moment. He weighs his own country in the balance of political justice, and considers what she ought to do in the cause of freedom and of man. He approves of her peaceful policy, and at the same time of her independence in speaking her mind upon all questions having any bearing on the great principles on which her government is founded. 'We are placed,' said he, 'by our good fortune, and the wisdom and valor of our ancestors, in a condition in which we can act no obscure part; be it for honor, be it for dishonor, whatever we do, is not likely to escape the observation of the world.' The speaker boldly declares the nature of our Government and delineates her peculiar features, and states openly that she can take but one side in such a contest, without abandoning, which she is not likely to do, her fundamental principles. He then brings up the Holy Alliance, and shows beyond a question, that the principles laid down by them, as far as they were developed, were not favorable to the rights of man. They still held to the divine rights of kings, and all the alleviation to be expected by the people must be considered gifts from them, not the rightful claims of their subjects. 'While the teachers of Laybach

give the rule. there will be no law but the law of the strongest.' This law was promulgated to the world in a circular, dated 1821. He inquires what interest we have in resisting the doctrines of the Holy Alliance.

'It may now be required of me to show what interest *we* have, in resisting this new system. What is it to *us*, it may be asked, upon what principles. or what pretences, the European governments assert a right of interfering in the affairs of their neighbors? The thunder, it may be said, rolls at a distance. The wide Atlantic is between us and danger; and, however others may suffer, *we* shall remain safe.

'I think it a sufficient answer to this, to say, that we are one of the nations; that we have an interest, therefore, in the preservation of that system of national law and national intercourse, which has heretofore subsisted, so beneficially for all. Our system of government, it should also be remembered, is, throughout, founded on principles utterly hostile to the new code; and, if we remain undisturbed by its operation, we shall owe our security, either to our situation or our spirit. The enterprising character of the age, our own active commercial spirit, the great increase which has taken place in the intercourse between civilized and commercial States, have necessarily connected us with the nations of the earth, and given us a high concern in the preservation of those salutary principles upon which that intercourse is founded. We have as clear an interest in international law, as individuals have in the laws of society.

'But, apart from the soundness of the policy, on the ground of direct interest, we have, sir, a duty, connected with this subject, which I trust we are willing to perform. What do *we* not owe to the cause of civil and religious liberty? to the principle of lawful resistance? to the principle that society has a right to partake in its own government? As the leading republic of the world, living and breathing in these principles, and advanced, by their operation, with unequalled rapidity in our career, shall we give *our* consent to bring them into disrepute and disgrace? It is neither ostentation nor boasting to say, that there lie before this country, in immediate prospect, a great extent and height of power. We are borne along towards this without effort, and not always even with a full knowledge of the rapidity of our own motion. Circumstances which never combined before, have co-operated in our favor, and a mighty current is setting us forward, which we could not resist, even if we would, and which, while we would stop to make an observation, and take the sun, has set us, at the end of the operation, far in advance of the place where we commenced it. Does it not become us, then, is it not a duty imposed on us, to give our weight to the side of liberty and justice—to let mankind know that we are not tired of our own institutions—and to protest against the asserted power of altering, at pleasure, the law of the civilized world?

'But, whatever we do, in this respect, it becomes us to do upon clear and consistent principles. There is an important topic in the Message, to which I have yet hardly alluded. I mean the rumored combination of the European continental sovereigns, against the new established free States of South America. Whatever position this Government may take on that subject, I trust it will be one which can be defended on known and acknowledged grounds of right. The near approach, or the remote distance of danger, may affect policy, but cannot change principle. The same reason that would authorize us to protest against unwarrantable combinations to interfere between Spain and her former colonies, would authorize us equally to protest, if the same combination were directed against the smallest State in Europe, although our duty to ourselves, our policy, and wisdom, might indicate very different courses, as fit to be pursued by us in the two cases. We shall not, I trust, act upon the notion of dividing the world with the Holy Alliance, and complain of nothing done by them in their hemisphere, if they will not interfere with ours. At least this would not be such a course of policy as I could recommend or support. We have not offended, and, I hope, we do not intend to offend, in regard to South America, against any principle of national independence or of public law. We have done nothing, we shall do nothing, that we need to hush up or to compromise, by forbearing to express our sympathy for the cause of the Greeks, or our opinion of the course which other Governments have adopted in regard to them.'

The speaker gives a condensed account of the state of Greece, as she then was in the early part of the late struggle. The description is forcibly drawn, not colored by the imagination, or spread out into rhetorical beauties for display. It is truth, such as is well understood by all men who think, and such as is or will be felt by all nations who regard their own rights.

'I shall not detain the Committee, Sir, by laying before it any statistical, geographical, or commercial account of Greece. I have no knowledge on these subjects, which is not common to all. It is universally admitted, that, within the last thirty or forty years, the condition of Greece has been greatly improved. Her marine is at present respectable, containing the best sailors in the Mediterranean, better even, in

that sea, than our own, as more accustomed to the long quarantines, and other regulations which prevail in its ports. The number of her seamen has been estimated as high as 50,000, but I suppose that estimate must be much too large. They have probably 150,000 tons of shipping. It is not easy to state an accurate account of Grecian population. The Turkish Government does not trouble itself with any of the calculations of political economy, and there has never been such a thing as an accurate census, probably, in any part of the Turkish empire. In the absence of all official information, private opinions widely differ. By the tables which have been communicated, it would seem that there are 2,400,000 Greeks in Greece Proper and the islands; an amount, as I am inclined to think, somewhat overrated. There are, probably, in the whole of European Turkey, 5,000,000 Greeks, and 2,000,000 more in the Asiatic dominions of that power. The moral and intellectual progress of this numerous population, under the horrible oppression which crushes it, has been such as may well excite regard. Slaves, under barbarous masters, the Greeks have still aspired after the blessings of knowledge and civilization. Before the breaking out of the present revolution, they had established schools, and colleges, and libraries, and the press. Wherever, as in Scio, owing to particular circumstances, the weight of oppression was mitigated, the natural vivacity of the Greeks, and their aptitude for the arts, were discovered. Though certainly not on an equality with the civilized and Christian States of Europe,—and how is it possible under such oppression as they endured that they should be? they yet furnished a striking contrast with their Tartar masters. It has been well said, that it is not easy to form a just conception of the nature of the despotism exercised over them. Conquest and subjugation, as known among European States, are inadequate modes of expression by which to denote the dominion of the Turks. A conquest, in the civilized world, is generally no more than an acquisition of a new dominion to the conquering country. It does not imply a never-ending bondage imposed upon the conquered, a perpetual mark, and opprobrious distinction between them and their masters; a bitter and unending persecution of their religion; an habitual violation of their rights of person and property, and the unrestrained indulgence towards them, of every passion which belongs to the character of a barbarous soldiery. Yet such is the state of Greece. The Ottoman power over them, obtained originally by the sword, is constantly preserved by the same means. Wherever it exists, it is a mere military power. The religious and civil code of the State, being both fixed in the Alcoran, and equally the object of an ignorant and furious faith, have been found equally incapable of change. "The Turk," it has been said, "has been *encamped* in Europe for four centuries." He has hardly any more participation in European manners, knowledge, and arts, than when he crossed the Bosphorus. But this is not the worst of it. The power of the empire is fallen into anarchy, and as the principle which belongs to the head belongs also to the parts, there are as many despots as there are pachas, beys, and visiers. Wars are almost perpetual between the sultan and some rebellious governor of a province; and in the conflict of these despotisms, the people are necessarily ground between the upper and the nether millstone. In short, the Christian subjects of the Sublime Porte feel daily all the miseries which flow from despotism, from anarchy, from slavery, and from religious persecution. If any thing yet remains to heighten such a picture, let it be added, that every office in the Government is not only actually, but professedly venal; —the pachalics, the visierites, the cadiships, and whatsoever other denomination may denote the depositary of power. In the whole world, sir, there is no such oppression *felt*, as by the Christian Greeks. In various parts of India, to be sure, the government is bad enough; but then it is the government of barbarians over barbarians, and the *feeling* of oppression is, of course, not so keen. There the oppressed are perhaps not better than their oppressors; but in the case of Greece, there are millions of Christian men, not without knowledge, not without refinement, not without a strong thirst for all the pleasures of civilized life, trampled into the very earth, century after century, by a pillaging, savage, relentless soldiery. Sir, the case is unique. There exists, and has existed, nothing like it. The world has no such misery to show; there is no case in which Christian communities can be called upon, with such emphasis of appeal.'

Whoever reads the speech carefully, will find that it contains a full avowal of Mr. Webster's opinions on our duties as a great republic, in all those important questions which are now agitating the world. His leading maxims are,—Watch all the movements of nations; examine their conduct with impartiality and justice; speak of them with candor, but with freedom, and prepare to act with magnanimity and good faith.

From the halls of Congress, Mr. Webster passes with ease and dignity to any place or cause, when man is to be roused, enlightened, or directed and pleased. As our country increases in age and population, every circumstance of our history be-

comes more a matter of importance to us, and will be more regarded as we journey onward in the career of national distinction.

The battle of Bunker Hill was, from the day it was fought, a fond theme for our people to dwell upon. It was the first fair test of national bravery in the revolutionary contest; the first regular battle in which Britons and the sons of Britons met. It was strongly marked with true national characteristics, and was the most distinguished of our battles. A half century was now closing on the nation since that memorable period. The day could not pass unnoticed by those who valued their birth-rights. The people of New England had, a short time before, formed a society, to be called *The Bunker Hill Association*, 'for the purpose of rearing some honorable and durable monument to the memory of the early friends of American Independence.' The close of the fiftieth year was fixed upon to lay the corner stone of this monument. Mr. Webster was selected as the orator on this occasion by the directors of the Association; in fact, it was not their selection alone, for the eyes of the whole people were turned upon him as the man who was to speak to them of by-gone times, long before the directors had met to name him. Great preparations were made for the purpose of commemorating the event, and of beginning the monument, and the whole community, far and wide, were invited to attend. The day previous, the metropolis of New England was crowded to overflowing. The morning sun of the 17th of June, 1825, rose as lovely as on the day of his birth. The survivors of the battle of the 17th of June, 1775, were invited by the Legislature of Massachusetts to attend the ceremonies at the expense of the Commonwealth. About fifty of them were found among the living, able to come; these, with other revolutionary heroes, made part of the wonders of the day. The days of their deeds and their marchings had passed; and they were borne to the field in open carriages, as at an ovation in triumphal cars. These cars were driven not by professional whips, but by young gentlemen who volunteered their services for that honor. The effect was scenic. These hoary-headed warriors seemed glorified spectres from some field of battle, over which flowers had grown, and harvests had been reaped, until the memory of blood had been forgotten, and who had come up to say, 'We have been sufficiently avenged; let harmony and peace prevail among men.'

One mass of people filled the streets in regular procession for nearly two miles in extent. As they passed, the houses were crowded with spectators. Every resting-place, window, and battlement, were full of youth and beauty, looking on; delighted infancy inquired what it all meant; and the lack-lustre eye of age was lighted up with new fires for that hour's gaze. In this procession, which was made up of the valuable portion of the land,—the virtuous, the conspicuous, and the renowned, was La-Fayette, then the nation's guest; he, too, had come to join in the patriotic commemoration,—in the jubilee of liberty. The corner stone now laid, the people being seated in the amphitheatre which nature had prepared for them, and to which art had only added a few benches; after a slight bustling for seats, all was still; when a venerable form arose* to implore the blessings of Heaven on the day, the deed, and the orator. He, too, seemed to have come from the dead. He was a being of another age, at least. He had the snow of nearly fourscore winters upon his head; his voice, though changed, was not broken by age; he was heard and accompanied by thousands in his devotions. There is something indescribably venerable in a holy man, who has long officiated at the altar of the Most High. There was a divine glow in that age-stricken face, that showed that the moral as well as national grandeur of the scene was in his mind; and as he closed his prayer with all honor and glory to God, his countenance unequivocally spoke the language of Simeon of old, 'Now lettest thou thy servant depart in peace, for mine eyes have seen thy salvation.'

The speaker next was seen; all eyes were turned upon him, and breathless attention was the signal for his first accent. History has no parallel for this scene.

In the open air, exposed to sun and winds, stood an orator, ripe with the thoughts of manhood, before all the impressions and the glow of early days had gone; myriads of listeners were around him; heroes were clustering near him, among them the representatives of other hemispheres; holy men, who were just entering eternity, were ready to implore a blessing, and depart; the bones of friends and enemies were shaking in their graves beneath the feet of new and old generations, and passing time was announcing that half a century had elapsed since the roar of battle had broke over the sacred ground. The corner stone of a time-defying monument was then resting at his feet, and a hundred thousand bosoms in his sight were swelling and heaving with patriotism and republican pride. How sublime the scene! What a moment for "*thoughts that breathe and words that burn!*"

All were satisfied,—all delighted. Yet there was nothing but good sense running

* The Rev. Joseph Thaxter, of Edgarton.

through all he said; no artificial pauses were made to elicit the plaudits of a larger audience than any orator in this country ever before addressed. He had studied no graceful gestures for the occasion. His voice was clear and powerful, and heard far beyond the usual compass of the human voice. He spoke as he felt, with deliberate energy of thought and word. His whole soul was in that day's glory. Every topic that he touched was directly applicable to his subject; there were none of the wanderings of genius in his speech; all was compact, intense and connected. The importance of the institution, its great objects, and its harmony, with all the feelings of patriotism were dwelt upon. The principles of the Revolution received new interest from his eloquence. The mighty dead of the Revolution were eulogised, and the survivors addressed with affection and reverence. They had never anticipated such a day. Lafayette was full of the 'grand spectacle,' and declared, that he had never before beheld a concourse so intelligent and so happy. Such impressions may slumber, but can never die. They will be called up by memory, and transmitted with fresh laurels to remotest time.

Mr. Webster had not often made his appearance in Faneuil Hall on those occasions which call forth the unpremeditated speeches of those who come to animate the voters before the poles are opened. He had not tried or wasted his strength on these useful, but ephemeral efforts in the cause of every ordinary election. He admired the old cradle of liberty, but it was the place for young men to try their oratorical powers, and he had passed the period of all such struggles; yet, previous to the election of April, 1825, in that state, when no small degree of confusion seemed to be found in the ranks of his friends, he was induced to come forward to say a few words in favor of union. He was awkwardly situated; some of his friends were very urgent for him to appear, as he might do much good in bringing about harmony. He received notes from some other friends, pressing him to be there without fail; from others, again, urging him to stay at home. One, couched in Calphurnia's words, 'Go not forth to-day;' and this from one, too, who loved him well, and one who had as many fears for the loss of his popularity as the fond wife had for Cæsar's life; nevertheless, his popularity was not in quite so much jeopardy as the great Roman's life. He did go forth, and made a speech, which, if it did not unite all parties, went no small way to accomplish it; at all events, it increased the public confidence in his political course. These sudden, occasional speeches, called out by unforeseen circumstances, show a man's common course of thinking, and his fitness for that debate, which a statesman is often forced into without much preparation. The topics he touched upon were well chosen, and as one of those little gems of eloquence, the speech is given:—

'Mr. Webster said, he was quite unaccustomed to appear in that place; having, on no occasion, addressed his fellow citizens there, either to recommend or to oppose the support of any candidates for public office. He had long been of opinion, that to preserve the distinction, and the hostility of political parties, was not consistent with the highest degree of public good. At the same time he did not find fault with the conduct, nor question the motives, of those who thought otherwise. But, entertaining this opinion, he had abstained from attending on those occasions, in which the merits of public men, and of candidates for office, were discussed, necessarily, with more or less reference to party attachment, and party organization.

'The present was a different occasion. The sentiment which had called this meeting together, was a sentiment of union and conciliation; a sentiment so congenial to his own feelings, and to his opinion of the public interest, that he could not resist the inclination to be present, and to express his entire and hearty approbation.

'He should forbear, Mr. W. said, from all remarks upon the particular names which had been recommended by the committee. They had been selected, he must presume, fairly, and with due consideration, by those who were appointed for that purpose. In cases of this sort every one cannot expect to find every thing precisely as he might wish it; but those who concurred in the general sentiment would naturally allow that sentiment to prevail, as far as possible, over particular objections.

'On the general question he would make a few remarks, begging the indulgence of the meeting, if he should say any thing which might with more propriety proceed from others.

'He hardly conceived how well-disposed and intelligent minds could differ, as to the question, whether party contest, and party strife, organized, systematic, and continued, were of themselves desirable ingredients in the composition of society. Difference of opinion, on political subjects, honorable competition, and emulous rivalry, may, indeed be useful. But these are very different things from organized and systematic party combinations. He admitted, even, that party associations were sometimes unavoidable, and perhaps necessary, to the accomplishment of other ends and purposes. But this did not prove that, of themselves, they were good; or that they

should be continued and preserved for their own sake, when there had ceased to be any object to be effected by them.

'But there were those who supposed, that whether political party distinctions were, or were not, useful, it was impossible to abolish them. Now he thought, on the contrary, that under present circumstances, it was quite impossible to continue them. New parties, indeed, might arise, growing out of new events, or new questions; but as to those old parties, which had sprung from controversies now no longer pending, or from feelings, which time and other causes had now changed, or greatly allayed, he did not believe that they could long remain. Efforts, indeed, made to that end, with zeal and perseverance, might delay their extinction, but, he thought, could not prevent it. There was nothing to keep alive these distinctions, in the interests and objects which now engage society. New questions and new objects arise, having no connexion with the subjects of past controversies, and present interest overcomes or absorbs the recollection of former controversies. All that are united on these existing questions, and present interests, are not likely to weaken their efforts to promote them by angry reflections on past differences. If there were nothing *in things*, to divide about, he thought the people not likely to maintain systematic controversies about *men*. They have no interest in so doing. Associations formed to support *principles*, may be called *parties;* but if they have no bond of union but adherence to particular *men* they become *factions*.

'The people, in his opinion, were at present grateful to all parties, for whatever of good they had accomplished, and indulgent to all for whatever of error they had committed: and, with these feelings, were now mainly intent on the great objects which affected their present interests. There might be exceptions to this remark; he was afraid there were; but, nevertheless, such appeared to him to be the general feeling in the country. It was natural that some prejudices should remain longer than their causes, as the waves lash the shore for a time, after the storm has subsided; but the tendency of the elements was to repose. Monopolies of all sorts were getting out of fashion, they were yielding to liberal ideas, and to the obvious justice and expediency of fair competition.

'An administration of the general government, which had been, in general, highly satisfactory to the country, had now closed. He was not aware that it could with propriety be said that that administration had been either supported, or opposed by any party associations, or on any party principles. Certain it was, that as far as there had been any organized opposition to the administration, it had nothing to do with former parties. A new administration had now commenced, and he need hardly say that the most liberal and conciliatory principles had been avowed. It could not be doubted, that it would conform to those principles. Thus far, he believed, its course had given general satisfaction. After what they all had seen, in relation to the gentlemen holding the highest appointment in the Executive Department, under the President, he would take this opportunity to say, that having been a member of the House of Representatives for six years, during the far greater part of which time Mr. Clay had presided in that House, he was most happy in being able, in a manner less formal than by concurring in the usual vote of thanks, to express his own opinion of his liberality, independence, and honorable feeling. And he would take this occasion also, to add, if his opinion could be of any value in such a case, that he thought nothing more unfounded than that that gentleman owed his present situation to any unworthy compromise or arrangement whatever. He owed it to his talent, to his prominent standing in the community, to his course of public service, not now a short one, and to the high estimation in which he stands with that part of the country to which he belongs.

'Remarks, Mr. Webster proceeded to say, had been made from the chair, very kind and partial, as to the manner in which he had discharged the duties which he owed to his constituents, in the House of Representatives. He wished to say, that if he had been able to render any, the humblest services, either to the public or his constituents, in that place, it was owing wholly to the liberal manner in which his efforts there had been received.

'Having alluded to the Inaugural Address, he did not mean, in the slightest degree, to detract from its merits, when he now said, that in his opinion, if either of the other candidates had succeeded in the election, he also would have adopted a liberal course of policy. He had no reason to believe that the sentiments of either of those gentlemen were, in this respect, narrow or contracted. He fully believed the contrary, in regard to both of them; but if they had been otherwise, he thought still, that expediency or necessity, would have controlled their inclinations.

'I forbear, said Mr. W. from pursuing these remarks farther. I repeat, that I do not complain of those who have hitherto thought, or who still think, that party organization is necessary to the public good. I do not question their motives; and I wish to be tolerant even to those who think that toleration ought not be indulged.

'It is said, sir, that prosperity sometimes hardens the heart. Perhaps, also, it may sometimes have a contrary effect, and elevate and liberalize the feelings. If this can ever be the result of such a cause, there is certainly in the present condition of the country enough to inspire the most grateful and the kindest feelings. We have a common stock both of happiness and of distinction, of which we are all entitled as citizens of the country to partake. We may all rejoice in the general prosperity, in the peace and security which we enjoy, and in the brilliant success which has thus far attended our republican institutions. These are circumstances which may well excitein us all a noble pride. Our civil and political institutions, while they answer for us all the great ends designed by them, furnish at the same time an example to others, and diffuse blessings beyond our own limits. In whatever part of the globe men are found contending for political liberty, they look to the United States with a feeling of brotherhood, and put forth a claim of kindred. The South American States, especially, exhibit a most interesting spectacle. Let the great men who formed our constitutions of government, who still survive, and let the children of those who have gone to their graves console themselves with the reflection, that whether they have risen or fallen in the little contests of party, they have not only established the liberty and happiness of their own native land, but have conferred blessings beyond their own country, and beyond their own thoughts, on millions of men, and on successions of generations. Under the influence of these institutions, received and adopted in principle, from our example, the whole southern continent has shaken off its colonial subjection. A new world, filled with fresh and interesting nations, has risen to our sight. America seems again discovered: not to geography, but to commerce, to social intercourse, to intelligence, to civilization, and to liberty. Fifty years ago, some of those who now hear me, and the fathers of many others, listened in this place, to those mighty masters, Otis and Adams. When they then uttered the spirit-stirring sounds of Independence and Liberty, there was not a foot of land on the continent inhabited by civilized man, that did not acknowledge the dominion of European power. Thank God, at this moment, from us to the south pole, and from sea to sea, there is hardly a foot that does.

'And, sir, when these States, thus newly disenthralled and emancipated, assume the tone and bear the port of independence, what language, and what ideas do we find associated with their new acquired liberty? They speak, sir, of Constitutions, of Declarations of Rights, of the Liberty of the Press, of a Congress, and of Representative Government. Where, sir, did they learn these? And when they have applied to their great leader, and the founder of their States, the language of praise and commendation, till they have exhausted it,—when unsatisfied gratitude can express itself no otherwise, do they not call him their WASHINGTON? Sir, the Spirit of Continental Independence, the Genius of American Liberty, which in earlier times tried her infant voice in the halls and on the hills of New-England, utters it now, with power that seems to wake the dead, on the plains of Mexico and along the sides of the Andes.

> "Her path, where'er the Goddess roves,
> Glory pursues, and generous shame,
> The unconquerable mind, and Freedom's holy flame."

'There is one other point of view, sir, in regard to which I will say a few words, though, perhaps, at some hazard of misinterpretation.

'In the wonderful spirit of improvement and enterprise which animates the country, we may be assured that each quarter will naturally exert its power in favor of objects in which it is interested. This is natural and unavoidable. Each portion, therefore, will use its best means. If the West feels a strong interest in clearing the navigation of its mighty streams, and opening roads through its vast forests; if the South is equally zealous to push the production and augment the prices of its great staples, it is reasonable to expect, that these objects will be pursued by the best means which offer. And it may, therefore, well deserve consideration, whether the commercial, and navigating, and manufacturing interests of the North do not call on us to aid and support them, by united counsels and united efforts. But I abstain from enlarging on this topic. Let me rather say, sir, that in regard to the whole country, a new era has arisen. In a time of peace, the proper pursuits of peace engage society with a degree of enterprise, and an intenseness of application heretofore unknown. New objects are opening, and new resources developed on every side. We tread on a broader theatre; and if instead of acting our parts, according to the novelty and importance of the scene, we waste our strength in mutual crimination and recrimination about the past, we shall resemble those navigators, who having escaped from some crooked and narrow river to the sea, now that the whole ocean is before them, should, nevertheless, occupy themselves with the differences which happened as they passed along among the rocks

and the shallows, instead of opening their eyes to the wide horizon around them, spreading their sail to the propitious gale that woos it, raising their quadrant to the sun, and grasping the helm, with the conscious hand of a master.

The inhabitants of Boston, not satisfied with the labors Mr. Webster had already performed for the instruction and gratification of the public, claimed his services again, as a eulogist on Adams and Jefferson, after their extraordinary exit from this life, on the 4th of July, 1826. It was not strange that old men should die. Nature required the repose of the grave after such active and eventful lives. The country was daily expecting to hear that they were sinking into the tomb. They had filled up a great measure of duty; but that it should be so decreed that both should be called to another world on the nation's political birth-day—called as it were by the same angel of death on the same errand to this world, was most wonderful. At this event the nation felt but one sentiment—of respect and affection; and if the expression may be allowed, but one heart-swelling emotion of wonder, admiration, and satisfaction, that they had gone together from this world of care and anxiety. Orations, sermons, elegies and speeches, were made from one end of the country to the other. Party spirit was sacrificed, at once, at the shrine of patriotism; and men of political creeds vied with each other in commemorating the talents, services, and virtues of each. The failings of both were forgotten, and their deeds were brought forward side by side, and commented upon, as they will be when a century has passed over us as a nation. There was none of that weakness in this, which is often discovered in epitaphs or obituaries from admiring friendship or relenting enmity. The head, as well as the heart, was concerned in the feelings and proceedings of the people. Boston is never behind her sister cities in celebrating any joyous event, or in commemorating any thing national, or glorious, or in paying honors to the illustrious dead. The mayor and aldermen appointed the second day of August following the fourth of July 1826, to notice the death of these distinguished statesmen. This day was fixed upon because on it, following the fourth of July, 1776, the members of the Continental Congress, who, from absence or other causes had not put their names to the immortal instrument, the Declaration of Independence, now assembled to put the finishing hand to it. On this occasion, the good people of Boston were more than usually enthusiastic, if that were possible, and felt a determination to show their respect for the illustrious dead, with no ordinary demonstrations of funeral ensignia. Faneuil Hall was shrouded in mourning—the business of the city was suspended; the colors of the shipping were hoisted half mast, and the bells tolled a solemn peal at appointed hours of the day. Several hours before the ceremonies commenced, the immense galleries of the old cradle of liberty were crowded with ladies, waiting for the orator to appear. The procession was formed at the State House, nearly half a mile from the Hall; and consisted of a very great number of the most respectable inhabitants of the metropolis; not more than a tenth of whom could expect to find accommodation for hearing the oration. As the procession passed, the windows and balconies were crowded with citizens with solemn faces, anxious to witness any portion of the honors the people were paying to the mighty dead. The deceased patriots had lived to

> 'Read their history in a nation's eyes;'

and now that nation, in this, and in other cities was putting the seal upon their fame by those funeral rites which are performed by the people only for those they loved. The body of Trajan was not so much the object of solemn curiosity as was Pliny's eulogy, in the Senate, upon the virtues of the great Roman. In joy and in grief, there often is a feeling so intense that the mind cannot find repose until the heart has discharged itself in words. Every one was so desirous of getting a look at the speaker, that the populace crowded upon one another to the great danger of life, or limbs Men, who were accustomed to see the orator almost daily, were just as eager to catch a glimpse of him as if they now beheld him for the first time. Men love to take their eyes from wandering over the wide expanse that heaven has suffered us to view, and direct them to one object, if such an object is capable of filling the mind. As the crowd thickened and the difficulties of a clear view increased, the exertions to see became more fierce. Many partook of the enthusiasm, who never could give a reason for it. The world has not much changed from its earliest ages. What Rome felt when her great ruler died, other cities feel now at the exit of their great men; and the same anxiety to see and hear those who praise them still continues;

> 'I have seen
> The dumb men throng to see him, and the blind
> To hear him speak; the matrons flung their gloves,
> Ladies and maids their scarfs and handkerchiefs,
> Upon him as he passed: The nobles bended,

> As to Jove's statue; and the commons made
> A shower and thunder, with their caps and shouts:
> I never saw the like.' CORIOLANUS.

The subject was one abounding in incident and full of interest. It stretched through a long measure of history, and was connected with the minute and the general affairs of the Republic. To do justice to the lives of both and to their country, during this period, would require numerous volumes of biography and history. The task was to condense this mass of matter to the compass of a two hours' speech. The biographical sketches of the two great patriots are graphic, spirited, succinct, and stamped with the strictest adherence to plain matter of fact.

Many of the orators and statesmen of the present day in our country affect to think but little of classical learning, and, relying on natural talents, most egregiously underrate the influences and the value of letters. This, however, is owing to their ignorance of the treasures of antiquity. It is natural, for who can estimate properly what he does not, in the slightest degree, understand? Mr. Webster has given us his own view of the subject in this oration; and this is one on which he should be heard, in particular, for his has been a business rather then a classical life; and he can justly appreciate the effect of any portion of classical literature.

'Literature sometimes, and pretensions to it much oftener, disgusts, by appearing to hang loosely on the character, like something foreign or extraneous, not a part, but an ill-adjusted appendage; or by seeming to overload and weigh it down, by its unsightly bulk, like the productions of bad taste in architecture, where there is massy and cumbrous ornament, without strength or solidity of column. This has exposed learning, and especially classical learning, to reproach. Men have seen that it might exist, without mental superiority, without vigor, without good taste, and without utility. But, in such cases, classical learning has only not inspired natural talent; or, at most, it has but made original feebleness of intellect, and natural bluntness of perception, something more conspicuous. The question, after all, if it be a question, is, whether literature, ancient as well as modern, does not assist a good understanding, improve natural good taste, add polished armor to native strength, and render its possessor, not only more capable of deriving private happiness from contemplation and reflection, but more accomplished, also, for action, in the affairs of life, and especially for public action. Those whose memories we now honor, were learned men; but their learning was kept in its proper place, and made subservient to the uses and objects of life. They were scholars, not common, nor superficial; but their scholarship was so in keeping with their character, so blended and inwrought, that careless observers, or bad judges, not seeing an ostentatious display of it, might infer that it did not exist; forgetting, or not knowing, that classical learning, in men who act in conspicuous public stations, perform duties which exercise the faculty of writing, or address popular, deliberative, or judicial bodies, is often felt, where it is little seen, and sometimes felt more effectually, because it is not seen at all.'

Among the gifts which Mr. Adams had from nature, and which were cultivated by close application to studies and duties was that of a strong voice and a most powerful imagination, united to a retentive memory, which are among the principal ingredients in making an orator. His eloquence was admired in his day, as full of strength, nature, fire, and classical learning. He came upon the question with all the energy of his feelings; he turned it to every light, and probed it to the very quick. He was well grounded in rhetoric, but made no display of his art; he pounced upon his subject with strength and spirit, regardless of the graces he might, or might not, exhibit in his performance. Mr. Webster has given us the characteristics of Mr. Adams' eloquence.

'The eloquence of Mr. Adams resembled his general character, and formed, indeed, a part of it. It was bold, manly, and energetic; and such the crisis required. When public bodies are to be addressed on momentous occasions, when great interests are at stake, and strong passions excited, nothing is valuable, in speech, farther than it is connected with high intellectual and moral endowments. Clearness, force, and earnestness are the qualities which produce conviction. True eloquence, indeed, does not consist in speech. It cannot be brought from far. Labor and learning may toil for it, but they will toil in vain. Words and phrases may be marshalled in every way, but they cannot compass it. It must exist in the man, in the subject, and in the occasion. Affected passion, intense expression, the pomp of declamation, all may aspire after it—they cannot reach it. It comes, if it comes at all, like the outbreaking of a fountain from the earth, or the bursting forth of volcanic fires, with spontaneous, original, native force. The graces taught in the schools, the costly ornaments, and studied contrivances of speech, shock and disgust men, when their own lives, and the fate of their wives, their children, and their country, hang on the decision of the

hour. Then words have lost their power, rhetoric is vain, and all elaborate oratory contemptible. Even genius itself then feels rebuked and subdued, as in the presence of higher qualities. Then, patriotism is eloquent; then, self-devotion is eloquent. The clear conception, outrunning the deductions of logic, the high purpose, the firm resolve, the dauntless spirit, speaking on the tongue, beaming from the eye, informing every feature, and urging the whole man onward, right onward to his object—this, this is eloquence; or rather it is something greater and higher than all eloquence, it is action, noble, sublime, godlike action.'

The declining years of Mr. Jefferson are faithfully and beautifully drawn, exhibiting the composure of wisdom and the serenity of moral courage. The old age of most men is querulous and feeble: they are distressed to think life has passed on so far, and that they have so short a time to finish up the business of it. Mr. Jefferson seemed to wait with patience, and was ready to obey the summons for his departure—watching the last rays of his setting sun as one wishing for rest after the toils and fatigues of the day; that rest had come, and the orator had in charge his fame.

'Both Mr. Adams and Mr. Jefferson had the pleasure of knowing that the respect, which they so largely received, was not paid to their official stations. They were not men made great by office; but great men, on whom the country for its own benefit had conferred office. There was that in them, which office did not give, and which the relinquishment of office did not, and could not, take away. In their retirement, in the midst of their fellow-citizens, themselves private citizens, they enjoyed as high regard and esteem, as when filling the most important places of public trust.

'There remained to Mr. Jefferson yet one other work of patriotism and beneficence, the establishment of a university in his native State. To this object he devoted years of incessant and anxious attention, and by the enlightened liberality of the legislature of Virginia, and the co-operation of other able and zealous friends, he lived to see it accomplished. May all success attend this infant seminary; and may those who enjoy its advantages, as often as their eyes shall rest on the neighboring height, recollect what they owe to their disinterested and indefatigable benefactor; and may letters honor him who thus labored in the cause of letters.

'Thus useful, and thus respected, passed the old age of Thomas Jefferson. But time was on its ever-ceaseless wing, and was now bringing the last hour of this illustrious man. He saw its approach, with undisturbed serenity. He counted the moments, as they passed, and beheld that his last sands were falling. That day, too, was at hand, which he had helped to make immortal. One wish, one hope—if it were not presumptuous—beat in his fainting breast. Could it be so—might it please God—he would desire—once more—to see the sun—once more to look abroad on the scene around him, on the great day of liberty. Heaven, in its mercy, fulfilled that prayer. He saw that sun—he enjoyed its sacred light—he thanked God for his mercy, and bowed his aged head to the grave. "*Felix, non vitæ tantum claritate, sed etiam opportunitate mortis.*"'

In 1821 Mr. Webster was engaged in a cause of no small importance before the High Court of Impeachment in Massachusetts. It was a trial which called up strong feelings in the community, and attracted much attention throughout the Commonwealth: James Prescott, a Judge of Probate of Wills, &c. &c. for the county of Middlesex, in that Commonwealth, was charged by the House of Representatives, acting as a grand inquest under the Constitution, with misconduct and mal-administration in his office, inasmuch as he had held Probate Courts at other times than those authorized by law; and for demanding and taking illegal fees, and acting as Counsel, and for receiving fees in cases pending in his own Court before him as judge. Prescott had long been considered a man of talents and integrity, and a most excellent Judge of Probate: his decisions had been held in great respect. In some instances he had found the law silent, or vague and uncertain upon many points. No small part of his course had been founded upon ancient usages; and when new cases arose, he, as was customary in the preceding ages, legislated a little for himself. This was thought no harm. He had proceeded in this course for sixteen years, and no one complained except the lawyers, who lost counsel fees by it. The judge had a little tinge of avarice in his composition, and some share of obstinacy, but no one thought him dishonest, or capable of acting corruptly. In an evil hour, a vindictive neighbor, offended by some cause not arising in the Court of Probate, entered his complaint upon some State allegations to the House of Representatives, on which the House thought it a duty to frame articles of impeachment, and therefore appointed managers to prosecute them to final judgment before the Senate, as the High Court of Impeachment. These managers were six of the most learned and eloquent members of the House, who discharged their duty with great ability. Mr. Webster, Mr. Blake, and Mr. Hoar, were of Counsel for the respondent. The defence was opened by the latter gentleman, in a sound and able argument, and closed by Mr. Webster. If acting

out of the letter of the statute was wrong, the judge was culpable; but in his defence it was argued that in the alleged cases, the statute was silent, and in no case had he violated any clause of it; and that he had used a fair discretion in holding courts other than those fixed by law, and on occasions of emergency only. The practice was common in almost every county in the Commonwealth; but this, it was contended by the managers, could not avail if proved, as a common error could not establish a right; but it certainly went far to show that there was no corruption. The taking of fees for advice, it was urged in the defence was not corrupt, for that this advice given was always judicious, and saved expense of litigation, and assisted executors or administrators in the prompt discharge of their duties. The managers thought, that a evils had crept into this court, it was high time they were corrected, and this was a proper occasion to make the correction. Mr. Webster put forth his great strength in behalf of his client, and seldom was it more conspicuous. He felt that if his client had, in some instances acted imprudently, that he had not acted corruptly, and he breasted the arguments of the managers most strenuously. He went deeply into the origin of these courts for the probate of wills, and showed most clearly all the ancient usages in the ecclesiastical courts on which our probate courts were founded. The senate chamber was crowded, for a deep interest was excited: the advocate was more than usually earnest; in fact, he showed most evidently a great anxiety on the subject. His arguments seemed to sweep along like the billows of the ocean; his voice became deep toned, and now and then almost terrific. He seemed to have a presage of the opinion of the majority of the judges, and he continued to strive with might and main to bring his client off safe. His speech, towards the close, became truly impassioned and sublime. There was a deep feeling in his bursts of eloquence that agitated even those long accustomed to hear his fairest efforts; they saw his whole soul was in the cause, and the audience followed him without holding back a jot,—they crowded closer and closer to him as he advanced in his argument; and even envy owned that the struggle was gigantic. The close of the speech has come to us in a tamer form than that in which it was delivered; but as we have it in print, it is one of his most impassioned specimens of forensic eloquence. The reader shall judge for himself.

'I now beg leave to call the attention of the Court to one or two considerations of a general nature, and which appear to me to have an important bearing on the merits of this whole cause. The first is this, that from the day when the respondent was appointed Judge of Probate, down to the period at which these articles of impeachment close—from the year 1805 to 1821—there is not a single case, with the exception of that alleged by Ware, in which it is even pretended that any *secrecy* was designed or attempted by the Respondent: there is not a single case, in which he is even accused of having wished to keep any thing out of sight, or to conceal any fact in his administration, any charge which he had made, or any fee which he had taken. The evidence on which you are to judge him, is evidence furnished by himself; and instead of being obliged to seek for testimony in sources beyond the Respondent's control, it is his own avowed actions, his public administration, and the records of his office, which the managers of the prosecution alone have been able to produce. And yet he is charged with having acted *wilfully* and *corruptly*; as if it were possible that a magistrate, in a high and responsible station, with the eyes of the community upon him, should, for near twenty years, pursue a course of corrupt and wilful mal-administration, of which every act and every instance was formally and publicly put on record by himself, and laid open in the face of the community. Is this agreeable to the laws of human nature? Why, sir, if the Respondent has so long been pursuing a course of conscious, and wilful, and corrupt mal-administration, why do we discover none of the usual and natural traces of such a course—some attempt at concealment, some effort at secrecy; and in all the numberless cases, in which he had opportunity and temptation, why is not even a suspicion thrown out, that he has attempted to draw a veil of privacy over his alleged *extortions*?—Is it in reason that you should be obliged to go to his own records for the proof of his pretended crimes? And can you, with even the color of probability, appeal to a course of actions unsuspiciously performed in the face of Heaven, to support an accusation of offences, in their very nature private, concealed, and hidden?

'Another consideration of a general nature to which I earnestly ask the attention of this Hon. Court, is this, that after all these accusations, which have been brought together against the Respondent, in all these articles of impeachment, and with all the industry and zeal with which the matter of them has been furnished to the Hon. Managers, he is not accused nor was suspected of the crime most likely to bring an unjust judge to the bar of this Court. Show me the unjust judgment he has rendered, the illegal order he has given, the corrupt decree he has uttered, the act of oppression he has committed. What, sir, a magistrate, charged with a long and deliberate pet-

severance in wilful and corrupt administration, accused of extortion, thought capable of accepting the miserable bribe of a few cents or a few dollars, for illegal and unconstitutional acts—and that, too, in an office, presenting every day the most abundant opportunities, and if the Respondent were of the character pretended, the most irresistible temptation to acts of lucrative injustice; and yet, not one instance of a corrupt, illegal, or oppressive judgment! I do ask the permission of this Hon. Court, and of every member of it, to put this to his own conscience. I will ask him, if he can now name a more able and upright magistrate, as shown in all his proceedings and judgments, in all the offices of probate in the State? One whose records are more regularly and properly kept, whose administration is more prompt, correct, and legal,—whose competency to the duties is more complete, whose discharge of them is more punctual? I put this earnestly, sir, to the conscience of every member of this Hon. Court. I appeal more especially to my honorable friend, (*Mr. Fay,*) intrusted with a share of the management of this prosecution, and who has been for twenty years an inhabitant of the county of Middlesex. I will appeal to him, sir, and I will ask him, whether if he knew that this night his wife should be left husbandless, and his children fatherless, there is a magistrate in the State, in whose protection he had rather they should be left, than in that of the Respondent? Forgetting, for a moment, that he is a prosecutor, and remembering only that he is a citizen of the same county, a member of the same profession, with an acquaintance of twenty years standing, I ask him if he will say that he believes there is a county in the state, in which the office of Judge of Probate has been better administered for twenty years, than it has been in the county of Middlesex, by this Respondent. And yet, sir, you are asked to disgrace him. You are asked to fix on him the stigma of a corrupt and unjust judge, and condemn him to wear it through life.

'Mr. President, the case is closed! The fate of the respondent is in your hands. It is for you now to say, whether, from the law and the facts as they have appeared before you, you will proceed to disgrace and disfranchise him. If your duty calls on you to convict him, convict him, and let justice be done! but I adjure you let it be a clear undoubted case. Let it be so for his sake, for you are robbing him of that, for which with all your high powers, you can yield him no compensation; let it be so for your own sakes, for the responsibility of this day's judgment is one which you must carry with you through your life. For myself, I am willing here to relinquish the character of an advocate, and to express opinions by which I am willing to be bound, as a citizen of the community. And I say upon my honour and conscience, that I see not how, with the law and constitution for your guides, you can pronounce the respondent guilty. I declare, that I have seen no case of wilful and corrupt official misconduct, set forth according to the requisition of the constitution, and proved according to the common rules of evidence. I *see* many things imprudent and ill judged; many things that I could wish had been otherwise: but corruption and crime I do not see. Sir, the prejudices of the day will soon be forgotten; the passions, if any there be, which have excited or favored this prosecution, will subside; but the consequence of the judgment you are about to render will outlive both them and you. The Respondent is now brought, a single unprotected individual, to this formidable bar of judgment, to stand against the power and authority of the State. I know you can crush him, as he stands before you, and clothed as you are with the sovereignty of the State. You have the power "to change his countenance, and to send him away." Nor do I remind you that your judgment is to be rejudged by the community; and as you have summoned him for trial to this high tribunal, you are soon to descend yourselves from these seats of justice, and stand before the higher tribunal of the world. I would not fail so much in respect to this Hon. Court, as to hint that it could pronounce a sentence which the community will reverse. No, sir, it is not the world's revision which I would call on you to regard; but that of your own consciences when years have gone by, and you shall look back on the sentence you are about to render. If you send away the Respondent, condemned and sentenced, from your bar, you are yet to meet him in the world, on which you cast him out. You will be called to behold him a disgrace to his family, a sorrow and a shame to his children, a living fountain of grief and agony to himself.

'If you shall then be able to behold him only as an unjust judge, whom vengeance has overtaken, and justice has blasted, you will be able to look upon him, not without pity, but yet without remorse. But if, on the other hand, you shall see, whenever and wherever you meet him, a victim of prejudice or of passion, a sacrifice to a transient excitement; if you shall see in him, a man, for whose condemnation any provision of the constitution has been violated, or any principle of law broken down; then will he be able—humble and low as may be his condition—then will he be able to turn the current of compassion backward, and to look with pity on those who have been judges. If you are about to visit this Respondent with a judgment which shall blast his house;

if the bosoms of the innocent and the amiable are to be made to bleed under your infliction, I beseech you to be able to state clear and strong grounds for your proceeding. Prejudice and excitement are transitory, and will pass away. Political expediency, in matters of judicature, is a false and hollow principle, and will never satisfy the conscience of him who is fearful that he may have given a hasty judgment. I earnestly entreat you, for your own sakes, to possess yourselves of solid reasons, founded in truth and justice, for the judgment you pronounce, which you can carry with you, till you go down into your graves; reasons, which it will require no argument to revive, no sophistry, no excitement, no regard to popular favor, to render satisfactory to your consciences; reasons which you can appeal to, in every crisis of your lives, and which shall be able to assure you, in your own great extremity, that you have not judged a fellow creature without mercy.

'Sir, I have done with the case of this individual, and now leave him in your hands. But I would yet once more appeal to you as public men; as statesmen; as men of enlightened minds, capable of a large view of things, and of foreseeing the remote consequences of important transactions; and, as such, I would most earnestly implore you to consider fully of the judgment you may pronounce. You are about to give a construction to constitutional provisions, which may adhere to that instrument for ages, either for good or evil. I may perhaps overrate the importance of this occasion to the public welfare; but I confess it does appear to me that if this body give its sanction to some of the principles which have been advanced on this occasion, then there is a power in the State above the constitution and the law; a power essentially arbitrary and concentrated, the exercise of which may be most dangerous. If impeachment be not under the rule of the constitution and the laws, then may we tremble, not only for those who may be impeached, but for all others. If the full benefit of every constitutional provision be not extended to the Respondent, his case becomes the case of all the people of the Commonwealth. The constitution is their constitution. They have made it for their own protection, and for his among the rest. They are not eager for his conviction. They are not thirsting for his blood. If he be condemned, without having his offences set forth, in the manner which they, by their constitution have prescribed; and proved in the manner which they, by their laws have ordained, then not only is he condemned unjustly, but the rights of the whole people disregarded. For the sake of the people themselves, therefore, I would resist all attempts to convict by straining the laws, or getting over their prohibitions. I hold up before him the broad shield of the constitution: if through that he be pierced and fall, he will be but one sufferer, in a common catastrophe.'

In 1826, a resolution being presented to the House of Representatives for the appropriation of funds necessary to enable the President of the United States to send Ministers to the Congress of Panama,—Mr. McLane, of Delaware, moved an amendment, the object of which was to restrain the power of the Ministers to be sent, to a 'diplomatic character merely,' and to prevent them from *discussing, considering* or *consulting* on any *propositions* of *alliance, defensive* or *offensive*. The amendment was minute and particular, but was not satisfactory to Mr. Rives, of Virginia, who proposed an addition to the amendment, binding the Ministers still more closely. On this amendment, Mr. Webster addressed the House in a most able and learned argument. He said that there were only two questions to be considered; the first—'Whether the House of Representatives will assume the responsibility of withholding the ordinary appropriation for carrying into effect an Executive measure, which the Executive department has constitutionally instituted? The second,—whether, if it will not withhold the appropriation, it will yet take the responsibility of interposing with its own opinions, directions, or instructions, as to the manner in which this particular Executive measure shall be conducted?' The debate had become animated before Mr. Webster arose, and he had become deeply interested in the question, and came out with spirit and determination, and took as wide a survey as his opponents had ventured upon. Those unfriendly to the original motion, and those who moved the amendment were the same, or nearly so. The friends of the President thought, that a restriction such as this amendment proposed would unnecessarily interfere with the duties and prerogatives of the Executive, and be a bad precedent, even if within the course of Congressional authority. Such a power was not probably even contemplated by the framers of the Constitution.

Many of the topics of the debate were very general, and some of those called incidental were as interesting, if not more so, than the main question. South America had lately commenced a struggle for independence. It was no easy thing to shake off the yoke, which had for ages been fixed on their necks. The flame of liberty had spread from province to province, from mountain to mountain,—through all the plains and vales from Mexico to Peru. The voices of men fighting for freedom were echoed through the whole land. The morning sun saw the ardent patriots on the east of the

Andes, pouring out their blood as free as water, for liberty; and his evening ray with all its mildness, witnessed 'the spasms of infuriated man, struggling to recover his long lost liberty,' as the light streamed from the pacific to the glaciers. The oppressed had risen in one mass and hurled the tyrants and their minions to the dust, or drove them from the country, or confined the few remaining engines of tyranny to some narrow limits or some half a dozen strong holds. The lovers of liberty in this country and every country where liberty has a home, hailed with delight the prospect of South American Emancipation. The patriots had every thing to do, and they went on, as far as they knew what to do, with energy, patience, and perseverance. The cause was dear to the people of the United States, and they watched every breeze from the South with an anxious ear for the news from that agitated country. As soon as this country saw that there was a fair prospect, that South America could, with some assistance and good fortune, maintain their independence, the United States took part with them in feeling, if they could do no more. From these symptoms, and from his own heart, the President of the United States had spoken boldly and freely upon the subject of their independence, and the people were unanimous in repeating his declarations, and agreed to support him heart and hand, in the part he should take in the cause.

South America had been a region of romance to us; we had traced its history from the discovery of the country to the revolution. Nature had marked it with most extraordinary features,—exhibiting all that is wild, beautiful, and magnificent in scenery; it has also all the varieties of climate, from perpetual verdure to eternal snows,—and its history abounds in the marvellous. The historian can give no satisfactory account of the nations found there, when the Spaniards came to subdue it. The conquest of it by Pizarro and Cortez is a tale of wonder throughout. The mild, soft, and lovely simplicity of the natives, has been, in a good measure, lost by Spanish cruelty, and the succeeding race of intermingled blood unite some of the worst traits of both nations,—indolence and ferocity. Spain has been cursed in a thousand ways for the blood she has wantonly spilled; but in none is it more distinctly seen than in the effects of the treasures she has drawn from South America. Spain has been plundered and drained of the gold she wrung from her colonies, and other nations enjoy what her avarice produced. She ruled her colonies with a rod of iron; and, for the purpose of quenching every ray of civil liberty, had shrouded them with the thickest mantle of superstition, and from jealousy and bigotry had shut them from the rest of the world. All nations were excluded from the immense seaboard of South America; a seaboard, the extent of which was half a measure of the circumference of the globe itself. The mother country carried on her commerce sluggishly, and on her own terms. No olive tree or vine was allowed to grow on soils most congenial to their cultivation. Now and then a smuggler stole into a port of South America at the risk of his property and life; or sometimes, perhaps, necessity made a viceroy open a port for a few months, but the colonies had no regular trade with any nation. This state of things could not last for ever. Some rays of light burst in upon the darkest portions of that country. Although books were prohibited, and the press not allowed, yet the history of our revolution, and that of France became partially known to the people, particularly to the most enterprising; and in every country there will always be some more restless and active than the rest;—added to this, several young men of the Spanish and half-blood were sent out of the country to the United States and to England, for the purpose of getting an education. These, on their return home, became dissatisfied with the state of things, and began secretly to take measures to disseminate intelligence among the people; and step by step they increased their influence and power; which, at last, their indolent masters saw, and in attempting to put them down brought on the revolution. The patriots, after extraordinary efforts, were successful. If all the sanguine anticipated, has not been realized in their march to freedom, yet, much has been done in the cause of liberty; and notwithstanding the confusion, the counter-revolutions, and wars with one another, still the hopes of the sagacious are not extinguished, but it is fully believed, that Time will bring healing upon his wings for these Republics, now torn with intestine broils, and suffering with unnatural conflicts.

When these new Republics felt that they had done much, and had still more to do, they proposed a Congress to meet at Panama to discuss their domestic and foreign relations, in order to take their stand with advantage among the nations of the world. The United States were invited to send a representation to this body, and the President accepted of the invitation. The appropriation for their salaries was now under discussion. Mr. Webster, full of the history of that wild and wonderful region, still came to the debate with a coolness, and a business spirit that became a statesman.—He indulged in no unreasonable glow of romance upon the occasion; but considered the question as one involving the great doctrines on which our country had acted from

her birth. There were no rapturous views of liberty,—nothing of that swelling importance which is often found among some of our statesmen, who think the whole world must yield implicitly to all our impressions of right and wrong whatever they might be; but he put the subject on well settled principles, and dared to hazard all consequences upon them. South America was struggling for emancipation, and he wished the United States to say to the world, 'that as we saved ourselves by such principles, we dare avow them, and act upon them, when other States are contending for their rights also.' Mr. Webster did not wish this country to make a Quixotic avowal, in the case that we would go with them heart and hand at all lengths, but simply to say that we would consult with them at all proper times and on all occasions, and do all for them consistent with our existing duties. This was manly and it was right also.

Mr. Canning, the British Premier, boasted, that he had created the South American Republics; this was the vanity of the great statesman, for the fire had descended from heaven and the mass of clay had been quickened into life, and stood erect as a man, before he, who would be thought the modern Prometheus, had contemplated the creation that swelled his heart with so much pride.

From the breaking out of the revolution in South America up to the time of the Congress of Panama, the people of that country looked to those of the United States for strong sympathies and friendly courtesies, if not for direct assistance; and the United States were not only friendly but enthusiastic in the cause of freedom; but some changes had come over a portion of our people, when this resolution for the appropriation of funds to defray the expenses of this Panama mission was offered in the House of Representatives; yet, notwithstanding this change, it was not a little singular, and somewhat painful, to hear in Congress, the sons of those who had invoked gods and men to assist them in their revolutionary struggles, talking with so much indifference on this great question. Theirs was a case of stronger oppression than ours. The grievances of the British Colonies consisted chiefly in assumption of false principles on the part of the mother country, out of which evils might have grown, but their cause of rebellion was absolute, heartfelt misery from the hand of the oppressor, *whose little finger was thicker than the loins* of those who oppressed us.

Mr. Webster had no hesitation in boldly avowing his sympathy for the people of South America. In the close of his speech, he said, 'If it be a weakness to feel the sympathy of one's nature excited for such men, in such a cause, I am guilty of that weakness. If it be prudence to meet their proffered civility, not with reciprocal kindness, but with coldness or insult I still choose to follow where natural impulse leads, and to give up that false and mistaken prudence, for the voluntary sentiments of my heart.'

The whole speech is full of sound arguments and honorable feelings. The following extract, a small portion of the speech, glances at the situation of South America, and touches upon the policy our Government should pursue.

'I am, therefore, Mr. Chairman, against the amendment; not only as not being a proper manner of exercising any power belonging to this House; but also as not containing instructions fit to be given, if we possessed the power of giving them. And as my vote will rest on these grounds, I might terminate my remarks here; but the discussion has extended over a broader surface, and following where others have led, I will ask your indulgence to a few observations on the more general topics of the debate.

'Mr. Chairman: It is our fortune to be called upon to act our part, as public men, at a most interesting era in human affairs. The short period of your life, and of mine, has been thick and crowded with the most important events. Not only new interests and new relations have sprung up among States, but new societies, new nations, and families of nations, have risen to take their places, and perform their parts, in the order and the intercourse of the world. Every man, aspiring to the character of a statesman, must endeavor to enlarge his views to meet this new state of things. He must aim at adequate comprehension, and instead of being satisfied with that narrow political sagacity, which, like the power of minute vision, sees small things accurately, but can see nothing else, he must look to the far horizon, and embrace, in his broad survey, whatever the series of recent events has brought into connexion, near or remote, with the country whose interests he studies to serve. We have seen eight States, formed out of colonies on our own continent, assume the rank of nations.

'This is a mighty revolution, and when we consider what an extent of the surface of the globe they cover; through what climates they extend; what population they contain, and what new impulses they must derive from this change of government, we cannot but perceive that great effects are likely to be produced on the intercourse, and the interests of the civilized world. Indeed, it has been forcibly said, by the intelligent and distinguished statesman who conducts the foreign relations of

England, that when we now speak of Europe and the world, we mean Europe and America; and that the different systems of these two portions of the globe, and their several and various interests, must be thoroughly studied and nicely balanced by the statesmen of the times.

'In many respects, sir, the European and the American nations are alike. They are alike Christian States, civilized States, and commercial States. They have access to the same common fountains of intelligence; they all draw from those sources which belong to the whole civilized world. In knowledge and letters—in the arts of peace and war, they differ in degrees; but they bear, nevertheless, a general resemblance. On the other hand, in matters of government and social institution, the nations on this continent are founded upon principles which never did prevail, in considerable extent, either at any other time, or in any other place. There has never been presented to the mind of man a more interesting subject of contemplation than the establishment of so many nations in America, partaking in the civilization and in the arts of the old world, but having left behind them those cumbrous institutions which had their origin in a dark and military age. Whatsoever European experience has developed favorable to the freedom and the happiness of man; whatsoever European genius has invented for his improvement or gratification; whatsoever of refinement or polish the culture of European society presents for his adoption and enjoyment—all this is offered to man in America, with the additional advantages of the full power of erecting forms of government on free and simple principles, without overturning institutions suited to times long passed, but too strongly supported, either by interests or prejudices, to be shaken without convulsions. This unprecedented state of things presents the happiest of all occasions for an attempt to establish national intercourse upon improved principles; upon principles tending to peace, and the mutual prosperity of nations. In this respect, America, the whole of America, has a new career before her. If we look back on the history of Europe, we see how great a portion of the last two centuries her States have been at war for interests connected mainly with her feudal monarchies; wars for particular dynasties; wars to support or defeat particular successions; wars to enlarge or curtail the dominions of particular crowns; wars to support or to dissolve family alliances; wars, in fine, to enforce or to resist religious intolerance. What long and bloody chapters do these not fill in the history of European polities! Who does not see, and who does not rejoice to see, that America has a glorious chance of escaping, at least, these causes of contention. Who does not see, and who does not rejoice to see, that, on this continent, under other forms of government, we have before us the noble hope of being able, by the mere influence of civil liberty and religious toleration, to dry up these outpouring fountains of blood, and to extinguish these consuming fires of war. The general opinion of the age favors such hopes and such prospects. There is a growing disposition to treat the intercourse of nations more like the useful intercourse of friends; philosophy—just views of national advantage, good sense and the dictates of a common religion, and an increasing conviction that war is not the interest of the human race—all concur to increase the interest created by this new accession to the list of nations.

'We have heard it said, sir, that the topic of South American Independence is worn out, and thread-bare. Such it may be, sir, to those who have contemplated it merely as an article of news, like the fluctuation of the markets, or the rise and fall of stocks. Such it may be, to those minds who can see no consequences following from these great events. But whoever has either understood their present importance, or can at all estimate their future influence—whoever has reflected on the new relations they introduce with other States—whoever, among ourselves especially, has meditated on the new relations which we now bear to them, and the striking attitude in which we ourselves are now placed, as the oldest of the American nations, will feel that the topic can never be without interest; and will be sensible, that, whether we are wise enough to perceive it or not, the establishment of South American independence will affect all nations, and ourselves perhaps more than any other, through all coming time.

'But, sir, although the independence of these new States seems effectually accomplished, yet a lingering and hopeless war is kept up against them by Spain. This is greatly to be regretted by all nations. To Spain it is, as every reasonable man sees, useless, and without hope. To the new States themselves it is burdensome and afflictive. To the commerce of neutral nations it is annoying and vexatious. There seems to be something of the pertinacity of the Spanish character in holding on in such a desperate course. It reminds us of the seventy years during which Spain resisted the independence of Holland. I think, however, that there is some reason to believe that the war approaches to its end. I believe that the measures adopted by our own Government have had an effect in tending to produce that result. I understand, at least, that the question of recognition has been taken into consideration by

the Spanish Government; and it may be hoped that a war, which Spain finds to be so expensive, which the whole world tells her is so hopeless, and which, if continued, now threatens her with new dangers, she may, ere long, have the prudence to terminate.

'Our own course during this contest between Spain and her colonies is well known. Though entirely and strictly neutral, we were in favor of early recognition. Our opinions were known to the allied sovereigns when in Congress at Aix-la-Chapelle in 1818, at which time the affairs of Spain and her colonies were under consideration; and, probably, the knowledge of those sentiments, together with the policy adopted by England, prevented any interference by other powers at that time. Yet we have treated Spain with scrupulous delicacy. We acted on the case as one of civil war. We treated with the new Governments as Governments *de facto*. Not questioning the right of Spain to coerce them back to their old obedience, if she had the power, we yet held it to be our right to deal with them as with existing Governments in fact, when the moment arrived at which it became apparent and manifest that the dominion of Spain over these, her ancient colonies, was at an end. Our right, our interest, and our duty, all concurred at that moment to recommend recognition—and we did recognise.

'Now, sir, the history of this proposed Congress goes back to an earlier date than that of our recognition. It commenced in 1821; and one of the treaties now before us, proposing such a meeting, that between Colombia and Chili, was concluded in July, 1822, a few months only after we had acknowledged the independence of the new States. The idea originated, doubtless, in the wish to strengthen the union among the new governments, and to promote the common cause of all, the effectual resistance to Spanish authority. As independence was at that time their leading object, it is natural to suppose that they contemplated this mode of mutual intercourse and mutual arrangement, as favorable to the necessary concentration of purpose and of action, for the attainment of that object. But this purpose of the Congress, or this leading idea, in which it may be supposed to have originated, has led, as it seems to me, to great misapprehensions as to its true character, and great mistakes in regard to the danger to be apprehended from our sending ministers to the meeting. This meeting, sir, is a Congress—not a Congress as the word is known to our Constitution and laws, for we use it in a peculiar sense; but as it is known to the law of nations. A Congress, by the law of nations, is but an appointed meeting for the settlement of affairs between different nations, in which the representatives or agents of each treat and negotiate as they are instructed by their own government. In other words, this Congress is a diplomatic meeting. We are asked to join no government—no legislature—no league—acting by votes. It is a Congress, such as those of Westphalia, of Nimeguen, of Ryswyck, or of Utrecht; or such as those which have been holden in Europe, in our own time. No nation is a party to any thing done in such assemblies, to which it does not expressly make itself a party. No one's rights are put at the disposition of any of the rest, or of all the rest. What ministers agree to, being afterwards duly ratified at home, binds their government; and nothing else binds the government. Whatsoever is done, to which they do not assent, neither binds the ministers nor their government, any more than if they had not been present.

'These truths, sir, seem too plain, and too common-place to be stated. I find my apology only in those misapprehensions of the character of the meeting to which I have referred both now and formerly. It has been said that commercial treaties are not negotiated at such meetings. Far otherwise is the fact. Among the earliest of important stipulations made in favor of commerce and navigation, were those at Westphalia. And what we call the treaty of Utrecht, was a bundle of treaties negotiated at that Congress; some of peace, some of boundary, and others of commerce. Again, it has been said, in order to prove that this meeting is a sort of confederacy, that such assemblies are out of the way of ordinary negotiation, and are always founded on, and provided for, by previous treaties. Pray, sir, what treaty preceded the Congress at Utrecht? and the meeting of our Plenipotentiaries with those of England at Ghent, what was that but a Congress? and what treaty preceded it? It is said, again, that there is no sovereign to whom our ministers can be accredited. Let me ask whether, in the case last cited, our ministers exhibited their credentials to the mayor of Ghent? Sir, the practice of nations in these matters is well known, and is free of difficulty. If the Government be not present, agents or Plenipotentiaries interchange their credentials. And when it is said that our ministers at Panama will be, not ministers, but deputies, members of a deliberative body, not protected in their public character by the public law; when all this is said, propositions are advanced, of which I see no evidence whatever, and which appear to me to be wholly without foundation.'

'It is contended that this Congress, by virtue of the treaties which the new States have entered into, will possess powers other than those of a diplomatic character, as

between those new States themselves. If that were so, it would be unimportant to us. The real question here is, what will be our relation with those States, by sending ministers to this Congress? Their arrangements among themselves will not affect us. Even if it were a Government like our old confederation, yet, if its members had authority to treat with us in behalf of their respective nations on subjects on which we have a right to treat, the Congress might still be a very proper occasion for such negotiations. Do gentlemen forget that the French Minister was introduced to our old Congress, met in its sessions, carried on oral discussions with it, and treated with it in behalf of the French King? All that did not make him a member of it; nor connect him at all with the relations which its members bore to each other. As he treated on the subject of carrying on the war against England, it was, doubtless, hostile towards that power; but this consequence followed from the object and nature of the stipulations, and not from the manner of the intercourse. The representatives of these South American States, it is said, will carry on belligerent councils at this Congress. Be it so; we shall not join in such councils. At the moment of invitation, our Government informed the ministers of those States, that we could not make ourselves a party to the war between them and Spain, nor to councils for deliberating on the means of its further prosecution.

'If, it is asked, we send ministers to a Congress composed altogether of belligerents, is it not a breach of neutrality? Certainly not; no man can say it is. Suppose, sir, that these ministers from the new States, instead of Panama, were to assemble at Bogota, where we already have a minister; their councils, at that place, might be belligerent, while the war should last with Spain. But should we, on that account, recall our minister from Bogota? The whole argument rests on this; that because, at the same time and place, the agents of the South American Governments may negotiate about their own relations with each other, in regard to their common war against Spain, therefore we cannot at the same time and place, negotiate with them, or any of them, upon our own neutral and commercial relations. This proposition, sir, cannot be maintained; and, therefore, all the inferences from it fail.

'But sir, I see no proof that, as between themselves, the representatives of the South American States are to possess other than diplomatic powers. I refer to the treaties, which are essentially alike, and which have been often read.

'With two exceptions, (which I will notice,) the articles of these treaties, describing the powers of the Congress, are substantially like those in the treaty of Paris, in 1814, providing for the Congress at Vienna. It was there stipulated that all the powers should send plenipotentiaries to Vienna, to regulate, in general Congress, the arrangements to complete the provisions of the present treaty. Now, it might have been here asked, how *regulate?* How regulate in general Congress?—regulate by votes? Sir, nobody asked such questions; simply because it was to be a Congress of plenipotentiaries. The two exceptions which I have mentioned, are, that this Congress is to act as a council and to interpret treaties: but there is nothing in either of these to be done which may not be done diplomatically. What is more common than diplomatic intercourse, to explain and to interpret treaties? Or what more frequent than that nations, having a common object, interchange mutual counsels and advice, through the medium of their respective ministers? To bring this matter, sir, to the test, let me ask, when these ministers assemble at Panama, can they do any thing but according to their instructions? Have they any organization, any power of action, or any rule of action common to them all? No more, sir, than the respective ministers at the Congress of Vienna. Every thing is settled by the use of the word Plenipotentiary. That proves the meeting to be diplomatic, and nothing else. Who ever heard of a Plenipotentiary member of the Legislature?—a plenipotentiary burgess of a city?—or a plenipotentiary knight of the shire?

'We may dismiss all fears, sir, arising from the nature of this meeting. Our agents will go there, if they go at all, in the character of ministers, protected by the public law, negotiating only for ourselves, and not called on to violate any neutral duty of their own government. If it be so that this meeting has other powers, in consequence of other arrangements between other States, of which I see no proof, still we are not party to these arrangements, nor can be in any way affected by them. As far as this government is concerned, nothing can be done but by negotiation, as in other cases.

'It has been affirmed, that this measure, and the sentiments expressed by the Executive relative to its objects, are an acknowledged departure from the neutral policy of the United States. Sir, I deny there is an acknowledged departure, or any departure at all, from the neutral policy of the country. What do we mean by our neutral policy? Not, I suppose, a blind and stupid indifference to whatever is passing around us; not a total disregard to approaching events, or approaching evils, till they meet us full in the face. Nor do we mean, by our neutral policy, that we intend never to

assert our rights by force. No, sir. We mean by our policy of neutrality, that the great objects of national pursuit with us are connected with peace. We covet no provinces; we desire no conquests; we entertain no ambitious projects of aggrandizement by war. This is our policy. But it does not follow, from this, that we rely less than other nations, on our own power to vindicate our own rights. We know that the last logic of kings is also our last logic; that our own interests must be defended and maintained by our own arm; and that peace or war may not always be of our own choosing. Our neutral policy, therefore, not only justifies but requires, our anxious attention to the political events which take place in the world, a skilful perception of their relation to our own concerns, and an early anticipation of their consequences, and firm and timely assertion of what we hold to be our own rights, and our own interests. Our neutrality is not a predetermined abstinence, either from remonstrances, or from force. Our neutral policy is a policy that protects neutrality, that defends neutrality, that takes up arms, if need be, for neutrality. When it is said, therefore, that this measure departs from our neutral policy, either that policy, or the measure itself, is misunderstood. It implies either that the object or the tendency of the measure is to involve us in the war of other States, which I think cannot be shown, or that the assertion of our own sentiments, on points affecting deeply our own interests, may place us in a hostile attitude with other States, and that, therefore, we depart from neutrality; whereas, the truth is, that the decisive assertion, and the firm support of these sentiments, may be most essential to the maintenance of neutrality.

'An honorable member from Pennsylvania thinks this Congress will bring a dark day over the United States. Doubtless, sir, it is an interesting moment in our history; but I see no great proofs of thick coming darkness. But the object of the remark seemed to be to show that the President himself saw difficulties on all sides, and, making a choice of evils, preferred rather to send ministers to this Congress, than to run the risk of exciting the hostility of the States by refusing to send. In other words, the gentleman wished to prove that the President intended an alliance; although such intention is expressly disclaimed.

'Much commentary has been bestowed on the letters of invitation from the ministers. I shall not go through with verbal criticisms on these letters. Their general import is plain enough. I shall not gather together small and minute quotations, taking a sentence here, a word there, and a syllable in a third place, dovetailing them into the course of remark, till the printed discourse bristles with inverted commas, in every line, like a harvest-field. I look to the general tenor of the invitations, and I find that we are asked to take part only in such things as concern ourselves. I look still more carefully to the answers, and I see every proper caution, and proper guard. I look to the message, and I see that nothing is there contemplated, likely to involve us in other men's quarrels, or that may justly give offence to any foreign State. With this, I am satisfied.'

In April, 1828, a bill was before Congress for the relief of certain officers of the revolutionary war. In 1780, the army was in a state of wretchedness, in want of food, clothes, and pay, and it seemed as if the cause was, after all the struggles and hardships, about to be abandoned for want of means to support an army. In this state of affairs, Congress had resort to an act, giving in the plenitude of a promise, half-pay for life to those officers who would engage to serve their country during the war. This body staked the faith of the nation for the redemption of the pledge. The brave sufferers accepted the offer, believing that the country would be able to pay them if the war was once fairly ended, and they were determined to end it as soon as possible. By this, new life and energy was restored to the army, and they went on with a high spirit, trusting to this faith of the nation, so solemnly pledged. In 1783, Congress made a commutation of this half-pay for life, reasoning upon what they thought the country was able to pay, rather than upon the terms of the solemn contract. A few agents spake and acted for the whole body of the officers; but as a body the officers were never satisfied with the result, with this huckstering of the Government. Many fell into the measure, fearing that if this commutation was refused, nothing would ever be obtained. Some thought perhaps this was the best the country could do, and of course were silent. The old soldier who had made so many sacrifices, was not disposed to quarrel now, about this act of injustice, after he had been quiet so long. Some had a strong faith that when the treasury should be full, and the nation prosperous, all would come right. When the time of peace and prosperity did arrive, a law making provision for the officers and soldiers of the revolution, was recommended by the President of the United States, and passed by Congress. This did much good, and saved many from living upon the charity of friends, or from suffering; but the act was so narrowly construed, that none but those absolutely suffering for daily bread were considered within the pale of it. But few of the officers who had accepted

of the commutation, had come within the act passed in 1818, and they petitioned Congress for some settlement in equity and justice of their claims. Influential agents were chosen from the survivors of those officers who had accepted the offer of Congress in 1780, who repaired to Washington to represent the merits of their claims before a committee of Congress. They made their appearance;—the silver-haired veterans were seen pacing the lobbies of the capitol, waiting to catch a look from some member who was supposed to be friendly, or to have some influence in the House or Senate, when the bill should be called up. One would have supposed that such a bill would have passed with acclamation, but there were many difficulties in the way, that could hardly be imagined. Those who said any thing upon the subject, considered that these old soldiers had a good claim on the country, in equity; but all equitable claims had not legal rights, much less remedies. A new generation had arisen since the revolutionary war, who thought it the most prudent way to consider all these matters as out-lawed. The whole subject was excellent on the page of history; shone bright there, and made up no small part of our glory, but to pay for this was too bad! They acted virtually upon the maxim of the philosopher, who said, 'It was well enough for dutiful children to raise a monument to their departed parents, but succeeding generations were romantic who should rebuild the pile when in a state of dilapidation.' The subject of hard-fighting ancestors was all-glorious, was excellent *to paint a moral or adorn a tale*, but to pay for all this after half a century, was something too near vulgar life; to put their hands into the treasury and to take out gold for those old stones, was too bad! It would take off no small portion of the delight they had felt in contemplating the subject, to do this!

Some of the members had constituents whose country had come into existence, as a place of civilization, since all these things had happened, since these talked-of services had been performed; and it could not be expected that they would look back far enough to trace their connexion with the services of these old soldiers. These men were brought reluctantly, if at all, to vote for such a bill. The impassioned appeal was to them, *like lightning on the impassive ice*. Their hearts were cold to the claim of the warriors who had fought half a century ago. There were some noble exceptions to this remark among those whose constituents were not directly interested. These met objection after objection, contended with their opponents without flinching, and put down sneer and sarcasm with honest intentions and good feelings, and held on until victory was secured. These good men and true, felt heart-sick at times, to hear the old soldier reviled, or treated with disrespect.

Mr. Webster, thinking the question a clear one, and believing that the bill would pass without any difficulty, and being much engaged in other matters of business, had not thought of making a speech on the subject, but looking around, and seeing the venerable agents of these venerable relics of other days,—Ogden and Reed,—officers who had fought without fear, and lived without reproach, except that of being made poor by devoting their lives and property to the cause of the revolution; he could restrain himself no longer; but resolved to come to the succour, to the joy of the old soldiers. He condensed all the arguments in favor of the bill into a few favorable remarks, and struck down those raised against it at a blow. The argument was condensed, strong, and in fact irresistible. No war-cry ever raised these veteran officers as did his speech,—they laughed, they wept, they were happy. If the bill had been rejected, and they ordered to the scaffold, it would have been of no consequence to them at that moment; for they had lived to hear, after half a century, themselves defended by one who felt their wrongs, and knew their rights; one who spake of them without fee, favor, or reward, except that reward which arises from a consciousness of having done one's duty. The tears of the veterans were infectious, the sympathy extended to the audience, reached the members of the Senate,—and the bill passed. The nation hailed it as one more act of reluctant justice, and augured from it that in time something further would be done to relieve those who ventured all for their country in her utmost need.

This short speech affords so favorable a specimen of Mr. Webster's condensed and forcible style of argument, that it is here presented to the reader entire.

'It has not been my purpose to take any part in the discussion of this bill. My opinions in regard to its general object, I hope are well known; and I had intended to content myself with a steady and persevering vote in its favor. But, when the moment of final decision has come, and the division is so likely to be nearly equal, I feel it to be a duty to put not only my own vote, but my own earnest wishes also, and my fervent entreaties to others, into the doubtful scale.

'It must be admitted, sir, that the persons for whose benefit this bill is designed, are, in some respects, peculiarly unfortunate. They are compelled to meet not only objections to the principle, but, whichever way they turn themselves, embarrassing objections also to details. One friend hesitates at this provision, and another at that,

while those who are not friends at all, of course oppose every thing, and propose nothing. When it was contemplated, heretofore, to give the petitioners an outright sum, in satisfaction of their claim, then the argument was, among other things, that the treasury could not bear so heavy a draught on its means, at the present moment.

'The plan is accordingly changed: an annuity is proposed; and then the objection changes also; and it is now said, that this is but granting pensions, and that the pension system has already been carried too far. I confess, sir, I felt wounded—deeply hurt—at the observations of the gentleman from Georgia. "So then," said he, "these modest and high-minded gentlemen take a pension at last!" How is it possible, that a gentleman of his generosity of character, and general kindness of feeling, can indulge in such a tone of triumphant irony towards a few old, gray headed, poor, and broken warriors of the revolution! There is, I know, something repulsive and opprobrious in the name of pension. But, God forbid that I should taunt them with it! With grief, heart-full grief, do I behold the necessity which leads these veterans to accept the bounty of their country, in a manner not the most agreeable to their feelings, Worn out and decrepit, represented before us by those, their former brothers in arms, who totter along our lobbies, or stand leaning on their crutches. I, for one, would most gladly support such a measure as should consult at once their services, their years, their necessities, and the delicacy of their sentiments. I would gladly give, with promptitude and grace, with gratitude and delicacy, that which merit has earned, and necessity demands.

'Sir, what are the objections urged against this bill? Let us look at them, and see if they be real; let us weigh them, to know if they be solid. For, sir, we are not acting on a slight matter. Nor is what we do likely to pass unobserved now, or to be forgotten hereafter. I regard the occasion as one full of interest and full of responsibility. Those individuals, the little remnant of a gallant band, whose days of youth and manhood were spent for their country in the toils and dangers of the field, are now before us, poor and old,—intimating their wants with reluctant delicacy, and asking succour from their country with decorous solicitude. How we shall treat them, it behooves us well to consider, not only for their sake, but for our own sake, also, and for the sake of the honor of the country. Whatever we do, will not be done in a corner. Our constituents will see it; the people will see it; the world will see it.

'Let us candidly examine, then, the objections which have been raised to this bill; with a disposition to yield to them, if from necessity we must; but to overcome them, if in fairness we can.

'In the first place, it is said, that we ought not to pass the bill, because it will involve us in a charge of unknown extent. We are reminded, that when the general pension law for revolutionary soldiers passed, an expense was incurred far beyond what had been contemplated; that the estimate of the number of surviving revolutionary soldiers, proved altogether fallacious; and that, for aught we know, the same mistake may be committed now.

'Is this objection well-founded? Let me say, in the first place, that if one measure, right in itself, has gone farther than it was intended to be carried, for want of accurate provisions and adequate guards, this may furnish a very good reason for supplying such guards and provisions in another measure, but can afford no ground at all for rejecting such other measure, altogether, if it be in itself just and necessary. We should avail ourselves of our experience, it seems to me, to correct what has been found amiss; and not to draw from it an undistinguishing resolution to do nothing, merely because it has taught us, that, in something we have already done, we have acted with too little care. In the next place, does the fact bear out this objection? Is there any difficulty in ascertaining the number of the officers who will be benefited by this bill, and in estimating the expense, therefore, which it will create? I think there is none. The records in the department of war, and the treasury, furnish such evidence as that there is no danger of material mistake. The diligence of the chairman of the committee has enabled him to lay the facts, connected with this part of the case, so fully and minutely before the Senate, that I think no one can feel serious doubt. Indeed, it is admitted by the adversaries of the bill, that this objection does not apply here with the same force as in the former pension-law. It is admitted that there is a greater facility in this case than in that, in ascertaining the number and names of those who will be entitled to receive that bounty.

'This objection, then, is not founded in true principle; and if it were, it is not sustained by the facts. I think we ought not to yield to it, unless, (which I know is not the sentiment which pervades the Senate,) feeling that the measure ought not to pass, we still prefer not to place our opposition to it on a distinct and visible ground, but to veil it under vague and general objections.

'In the second place, it has been objected, that the operation of the bill will be unequal, because all officers of the same rank will receive equal benefit from it, although

they entered the army at different times, and were of different ages. Sir, is not this that sort of inequality which must always exist in every general provision? Is it possible that any law can descend into such particulars? Would there be any reason why it should do so, if it could? The bill is intended for those, who, being in the army in October, 1780, then received a solemn promise of half-pay for life, on condition that they would continue to serve through the war. Their ground of merit is, that whensoever they had joined the army, being thus solicited by their country to remain in it, they at once went for the whole; they fastened their fortunes to the standards which they bore, and resolved to continue their military service till it should terminate either in their country's success, or in their own deaths. This is their merit and their ground of claim. How long they had been already in service, is immaterial and unimportant. They were then in service; the salvation of their country depended on their continuing in that service. Congress saw this imperative necessity, and earnestly solicited them to remain, and promised the compensation. They saw the necessity, also, and they yielded to it.

'But, again, it is said that the present time is not auspicious. The bill, it is urged, should not pass now. The venerable member from North Carolina says, as I understood him, that he would be almost as willing that the bill should pass at some other session, as be discussed at this. He speaks of the distresses of the country at the present moment, and of another bill, now in the Senate, having, as he thinks, the effect of laying new taxes upon the people. He is for postponement. But it appears to me, with entire respect for the honorable member, that it is one of the cases least of all fit for postponement. It is not a measure, that, if omitted this year, may as well be done next. Before next year comes, those who need the relief may be beyond its reach. To postpone for another year, an annuity to persons already so aged; an annuity founded on the merit of services which were rendered half a century ago; to postpone, for another whole year, a bill for the relief of deserving men,—proposing not aggrandizement but support; not emolument but bread; is a mode of disposing of it, in which I cannot concur.

'But it is argued in the next place, that the bill ought not to pass, because those who have spoken in its favor have placed it on different grounds. They have not agreed, it is said, whether it is to be regarded as a matter of right, or matter of gratuity, or bounty. Is there weight in this objection? If some think the grant ought to be made, as an exercise of judicious and well deserved bounty, does it weaken that ground that others think it founded in strict right, and that we cannot refuse it without manifest and palpable injustice? Or, is it strange, that those who feel the legal justice of the claim, should address to those who do not feel it, considerations of a different character, but fit to have weight, and which they hope may have weight? Nothing is more plain and natural than the course which this application has taken. The applicants, themselves, have placed it on the ground of equity and law. They advert to the resolve of 1780, to the commutation of 1783, and to the mode of funding the certificates. They stand on their contract. This is perfectly natural. On that basis they can wield the argument themselves. Of what is required by justice and equity, they may reason even in their own case. But when the application is placed on different grounds; when personal merit is to be urged, as the foundation of a just and economical bounty; when services are to be mentioned; privations recounted; pains enumerated; and wounds and scars counted; the discussion necessarily devolves to other hands. In all that we have seen from these officers in the various papers presented by them, it cannot but be obvious to every one, how little is said of personal merit, and how exclusively they confine themselves to what they think their rights under the contract.

'I must confess, sir, that principles of equity, which appear to me as plain as the sun, are urged by the memorialists themselves with great caution, and much qualification. They advance their claim of right, without extravagance or overstraining; and they submit it to the unimpassioned sense of justice of the Senate.

'For myself, I am free to say, that if it were a case between individual and individual, I think the officers would be entitled to relief in a court of equity. I may be mistaken, but such is my opinion. My reasons are, that I do not think they had a fair option, in regard to the commutation of half-pay. I do not think it was fairly in their power to accept or reject that offer. The condition they were in, and the situation of the country, compelled them to submit to whatever was proposed. In the next place it seems to me too evident to be denied, that the five years' full pay was never really and fully made to them. A formal compliance with the terms of the contract, not a real compliance, is at most all that was ever done. For these reasons, I think, in an individual case, law and equity would reform the settlement. The conscience of chancery would deal with this case as with other cases of hard bargains; of advantages obtained by means of inequality of situation; of acknowledged debts, compounded from necessity, or compromised without satisfaction. But, although such would be

my views of this claim, as between man and man, I do not place my vote for this bill on that ground. I see the consequence of admitting the claim, on the foundation of strict right. I see, at once, that, on that ground, the heirs of the dead would claim, as well as the living; and that other public creditors, as well as these holders of commutation certificates, would also have whereof to complain. I know it is altogether impossible to open the accounts of the revolution, and to think of doing justice to every body. Much of suffering there necessarily was, that can never be paid for; much of loss that can never be repaired. I do not, therefore, for myself, rest my vote on grounds leading to any such consequences. I feel constrained to say, that we cannot do, and ought not to think of doing, every thing in regard to revolutionary debts, which might be strictly right, if the whole settlement were now to be gone over anew. The honorable member from New York [Mr. Van Buren,] has stated, what I think the true ground of the bill. I regard it as an act of discreet and careful bounty, drawn forth by meritorious services, and by personal necessities. I cannot argue, in this case, with the technicality of my profession; and because I do not feel able to allow the claim on the ground of mere right, I am not willing, for that reason, to nonsuit the petitioners, as not having made out their case. Suppose we admit, as I do, that on the ground of mere right, it would not be safe to allow it; or, suppose that to be admitted for which others contend, that there is in the case no strict right upon which, under any circumstances, the claim could stand; still, it does not follow that there is no reasonable and proper foundation for it, or that it ought not to be granted. If it be not founded on strict right, it is not to be regarded as being, for that reason alone, an undeserved gratuity, or the effusion of mere good will. If that which is granted be not always granted on the ground of absolute right, it does not follow that it is granted from merely an arbitrary preference, or capricious beneficence. In most cases of this sort, mixed considerations prevail, and ought to prevail. Some consideration is due to the claim of right; much to that of merit and service; and more to that of personal necessity. If I knew that all the persons to be benefited by this bill were in circumstances of comfort and competency, I should not support it. But this I know to be otherwise. I cannot dwell with propriety or delicacy, on this part of the case: but I feel its force, and I yield to it. A single instance of affluence, or a few cases where want does not tread close on those who are themselves treading close on the borders of the grave, does not affect the general propriety and necessity of the measure. I would not draw this reason for the bill into too much prominence. We all know it exists; and we may, I think, safely act upon it, without so discussing it as to wound, in old, but sensitive, and still throbbing bosoms, feelings which education inspired, the habits of military life cherished, and a just self-respect is still desirous to entertain. I confess I meet this claim, not only with a desire to do something in favor of these officers, but to do it in a manner indicative not only of decorum but of deep respect,—that respect which years, age, public service, patriotism, and broken fortune, command to spring up in every manly breast.

'It is, then, sir, a mixed claim of faith and public gratitude; of justice and honorable bounty; of merit and benevolence. It stands on the same foundation as that grant, which no one regrets, of which all are proud, made to the illustrious foreigner, who showed himself so early, and has proved himself so constantly, and zealously, a friend to our country.

'But then, again, it is objected, that the militia have a claim upon us; that they fought at the side of the regular soldiers, and ought to share in the country's remembrance. It is known to be impossible, to carry the measure to such an extent as to embrace the militia; and it is plain, too, that the cases are different. The bill, as I have already said, confines itself to those who served not occasionally, not temporarily, but permanently; who allowed themselves to be counted on as men who were to see the contest through, last as long as it might; and who have made the phrase of "listing during the war," a proverbial expression, signifying unalterable devotion to our cause, through good fortune and ill fortune, till it reaches its close. This is a plain distinction; and although perhaps I might wish to do more, I see good ground to stop here, for the present, if we must stop any where. The militia who fought at Concord, at Lexington, and at Bunker's Hill, have been alluded to, in the course of this debate, in terms of well-deserved praise. Be assured, sir, there could with difficulty be found a man, who drew his sword, or carried his musket, at Concord, at Lexington, or Bunker's Hill, who would wish you to reject this bill. They might ask you to do more; but never to refrain from doing this. Would to God they were assembled here, and had the fate of the bill in their own hands! Would to God, the question of its passage was to be put to them! They would affirm it, with a unity of acclamation that would rend the roof of the capitol.

'I support the measure, then, Mr. President, because I think it a proper and judicious exercise of well-merited national bounty. I think, too, the general sentiment of my

own constituents, and of the country, is in favor of it. I believe the member from North Carolina, himself, admitted, that an increasing desire, that something should be done for the revolutionary officers, manifested itself in the community. The bill will make no immediate or great draught on the treasury. It will not derange the finances. If I had supposed that the state of the treasury would have been urged against the passage of this bill, I should not have voted for the Delaware break-water, because that might have been commenced next year; nor for the whole of the sums which have been granted for fortifications; for their advancement, with a little more or little less of rapidity, is not of the first necessity. But the present case is urgent. What we do, should be done quickly.

'Mr. President, allow me to repeat, that neither the subject, nor the occasion, is an ordinary one. Our own fellow-citizens do not so consider it; the world will not so regard it. A few deserving soldiers are before us, who served their country faithfully through a seven years' war. That was a civil war. It was commenced on principle, and sustained by every sacrifice, on the great ground of civil liberty. They fought bravely and bled freely. The cause succeeded and the country triumphed. But the condition of things did not allow that country, sensible as it was to their services and merits, to do them the full justice which it desired. It could not entirely fulfil its engagements. The army was to be disbanded; but it was unpaid. It was to lay down its own power; but there was no government with adequate power to perform what had been promised to it. In this critical moment, what is its conduct? Does it disgrace its high character? Is temptation able to seduce it? Does it speak of righting itself? Does it undertake to redress its own wrongs, by its own sword? Does it lose its patriotism in its deep sense of injury and injustice? Does military ambition cause its integrity to swerve? Far, far, otherwise.

'It had faithfully served and saved the country; and to that country it now referred, with unhesitating confidence, its claim and its complaints. It laid down its arms with alacrity; it mingled itself with the mass of the community; and it waited till, in better times, and under a new government, its services might be rewarded, and the promises made to it fulfilled. Sir, this example is worth more, far more, to the cause of civil liberty, than this bill will cost us. We can hardly recur to it too often, or dwell on it too much, for the honor of our country, and of its defenders. Allow me to say again, that meritorious service in civil war is worthy of peculiar consideration; not only because there is, in such war, usually less power to restrain irregularities, but because, also, they expose all prominent actors in them to different kinds of danger. It is rebellion as well as war. Those who engage in it must look not only to the dangers of the field, but to confiscation also and attainder and ignominious death. With no efficient and settled government, either to sustain or to control them, and with every sort of danger before them, it is great merit to have conducted with fidelity to the country, under every discouragement on the one hand, and with unconquerable bravery towards the common enemy on the other. So, sir, the officers and soldiers of the revolutionary army did conduct.

'I would not, and do not underrate the services or the sufferings of others. I know well, that in the revolutionary contest, all made sacrifices, and all endured sufferings; as well those who paid for service, as those who performed it. I know, that, in the records of all the little municipalities of New England, abundant proof exists of the zeal with which the cause was espoused, and the sacrifices with which it was cheerfully maintained. I have often there read, with absolute astonishment, the taxes, the contributions, the heavy subscriptions, often provided for by disposing of the absolute necessaries of life; by which enlistments were procured, and food and clothing furnished. It would be, sir, to these same municipalities, to these same little patriotic councils of revolutionary times, that I should now look, with most assured confidence, for a hearty support of what this bill proposes. There, the scale of revolutionary merit stands high. There are still those living, who speak of the 19th of April, and the 17th of June, without thinking it necessary to add the year. These men, one and all, would rejoice to find that those who stood by the country bravely, through the doubtful and perilous struggle which conducted it to independence and glory, had not been forgotten in the decline and close of life.

'The objects, then, sir, of the proposed bounty, are most worthy and deserving objects. The services which they rendered, were in the highest degree useful and important. The country to which they rendered them, is great and prosperous. They have lived to see it glorious; let them not live to see it unkind. For me, I can give them but my vote, and my prayers; and I give them both with my whole heart.'

In May, 1828, a tariff bill was brought before the Senate of the United States, and Mr. Webster found himself under the necessity of giving some reasons for the vote he was about to give on the occasion, as it might seem not to be in accordance with the vote on the tariff in 1824. At that time, Mr. Webster represented a commercial dis-

trict, and a large majority of his constituents were opposed to the restrictions on trade which that bill contained. He urged every argument in his power against it, but it was passed. At that period, he declared that if the bill did pass, there would be no alternative for New England, but to consider the course and policy of the Government as settled and fixed, and to act accordingly. The law did pass, and millions of dollars were invested in manufactures from necessity. The merchants came to this reluctantly, but when once engaged in manufacturing, this became as dear an interest as the mercantile, and they were as anxious to protect it. He conceived that if the system must be pursued, and this seemed determined upon by a majority of votes in Congress, he thought that those driven into it by the acts of 1816 and 1824, should have some protection, such as they deemed necessary, particularly those who had gone into the manufacture of woollens, on which, as a new business, the strictest calculations could not be made. Mr. Webster weighed the subject thoroughly, and took his course with its responsibility. It cannot be denied but that some of his former friends, who had still confined themselves entirely to commerce, were, for a season, disaffected towards him; not offended, but hurt; not inimical, but cool. This was the most trying situation he had ever been placed in, for among the merchants opposed to the tariff, might be numbered some of his earliest and best friends. This, he regretted; but being conscious of having done right, he kept on, without suffering himself to be disturbed at any thing said upon the subject; and he knew also his constituents, that they were that class of men who would correct their impressions, when all his reasons for voting as he did were fully understood by them. In this excitement he returned to Boston: a sight of their favorite was enough to restore all things with this people; and those who were delighted, and those who had complained, united, to give him a dinner, as a mark of their high estimation of his integrity and independence. This was, of course, accepted; and he met them and gave them a speech explanatory of his conduct. They were satisfied, and his popularity remained undiminished. This dinner must have been peculiarly acceptable to Mr. Webster, as it was another proof that his constituents were intelligent and magnanimous; and governed (if now and then touched by that caprice, so common in free communities) by high and proper principles. Envy thought she had found a want of consistency in this statesman, and seized the circumstances of the tariff to diminish his influence in the nation; but this expression of confidence, connected with the treatment he has met with in Massachusetts ever since, answered and refuted those who had clamored, and vainly hoped to prostrate him every where, by showing that he had become powerless in the house of his friends. Such circumstances try men's depth, breadth, and weight of character. Under such charges of inconsistency, a little man sinks, for he is generally so entirely 'frightened from his propriety,' that, in the endeavor to exculpate himself, he falls into greater difficulties. Mr. Webster stated the reasons for what he had done; a reason all had a right to ask, but he made no apologies. he had no palliation to offer. There were his acts; there were his speeches: judge for yourselves was the appeal, and to such a body it was all that was required. Mr. Hayne, in his speech on Mr. Foote's resolution, indirectly revived the charge; hear Mr. Webster's answer to that insinuation.

'As well as I recollect the course of his remarks, the honorable gentleman next recurred to the subject of the tariff. He did not doubt the word must be of unpleasant sound to me, and proceeded with an effort, neither new, nor attended with new success, to involve me and my votes in inconsistency and contradiction. I am happy the honorable gentleman has furnished me an opportunity of a timely remark or two on that subject. I was glad he approached it, for it is a question I enter upon without fear from any body. The strenuous toil of the gentleman has been to raise an inconsistency, between my dissent to the tariff in 1824, and my vote in 1828. It is labor lost. He pays undeserved compliment to my speech in 1824; but this is to raise me high, that my fall, as he would have it, in 1828, may be more signal. Sir, there was no fall at all. Between the ground I stood on in 1824, and that I took in 1828, there was not only no precipice, but no declivity. It was a change of position to meet new circumstances, but on the same level. A plain tale explains the whole matter. In 1816, I had not acquiesced in the tariff, then supported by South Carolina. To some parts of it, especially, I felt and expressed great repugnance. I held the same opinions in 1821, at the meeting in Faneuil Hall, to which the gentleman has alluded. I said then, and say now, that, as an original question, the authority of Congress to exercise the revenue power, with direct reference to the protection of manufactures, is a questionable authority, far more questionable, in my judgment, than the power of internal improvements. I must confess, sir, that, in one respect, some impression has been made on my opinions lately. Mr. Madison's publication has put the power in a very strong light. He has placed it, I must acknowledge, upon grounds of construction and argument, which seem unpregnable. But even if the power were doubtful,

on the face of the constitution itself, it had been assumed and asserted in the first revenue law ever passed under that same constitution; and, on this ground, as a matter settled by cotemporaneous practice, I had refrained from expressing the opinion that the tariff laws transcended constitutional limits, as the gentleman supposes. What I did say at Faneuil Hall, as far as I now remember, was, that this was originally matter of doubtful construction. The gentleman himself, I suppose, thinks there is no doubt about it, and that the laws are plainly against the constitution. Mr. Madison's letters, already referred to, contain, in my judgment, by far the most able exposition extant of this part of the constitution. He has satisfied me, so far as the practice of the government had left it an open question.

'With a great majority of the Representatives of Massachusetts, I voted against the tariff of 1824. My reasons were then given, and I will not now repeat them. But, notwithstanding our dissent, the great States of New York, Pennsylvania, Ohio, and Kentucky, went for the bill, in almost unbroken column, and it passed. Congress and the President sanctioned it, and it became the law of the land. What, then, were we to do? Our only option was, either to fall in with this settled course of public policy, and accommodate ourselves to it as well as we could, or to embrace the South Carolina doctrine, and talk of nullifying the statute by State interference.

'This last alternative did not suit our principles, and, of course, we adopted the former. In 1827, the subject came again before Congress, on a proposition favorable to wool and woollens. We looked upon the system of protection as being fixed and settled. The law of 1824 remained. It had gone into full operation, and in regard to some objects intended by it, perhaps most of them, had produced all its expected effects. No man proposed to repeal it; no man attempted to renew the general contest on its principle. But, owing to subsequent and unforeseen occurrences, the benefit intended by it to wool and woollen fabrics had not been realized. Events, not known here when the law passed, had taken place, which defeated its object in that particular respect. A measure was accordingly brought forward to meet this precise deficiency, to remedy this particular defect. It was limited to wool and woollens. Was ever any thing more reasonable? If the policy of the tariff laws had become established in principle, as the permanent policy of the government, should they not be revised and amended, and made equal, like other laws, as exigencies should arise, or justice require? Because we had doubted about adopting the system, were we to refuse to cure its manifest defects, after it became adopted, and when no one attempted its repeal? And this, sir, is the inconsistency so much bruited. I had voted against the tariff of 1824—but it passed; and in 1827 and 1828, I voted to amend it, in a point essential to the interest of my constituents. Where is the inconsistency? Could I do otherwise? Sir, does political consistency consist in always giving negative votes? Does it require of a public man to refuse to concur in amending laws, because they passed against his consent? Having voted against the tariff originally, does consistency demand that I should do all in my power to maintain an unequal tariff, burdensome to my own constituents, in many respects, favorable in none? To consistency of that sort, I lay no claim.—And there is another sort to which I lay as little—and that is, a kind of consistency by which persons feel themselves as much bound to oppose a proposition after it has become a law of the land as before.

'The bill of 1827, limited, as I have said, to the single object in which the tariff of 1824 had manifestly failed in its effect, passed the House of Representatives, but was lost here. We had then the act of 1828. I need not recur to the history of a measure so recent. Its enemies spiced it with whatsoever they thought would render it distasteful; its friends took it, drugged as it was. Vast amounts of property, many millions, had been invested in manufactures, under the inducements of the act of 1824. Events called loudly, as I thought, for further regulation to secure the degree of protection intended by that act. I was disposed to vote for such regulation, and desired nothing more; but certainly was not to be bantered out of my purpose by a threatened augmentation of duty on molasses, put into the bill for the avowed purpose of making it obnoxious. The vote may have been right or wrong, wise or unwise; but it is little less than absurd to allege against it an inconsistency with opposition to the former law.

'Sir, as to the general subject of the tariff, I have little now to say. Another opportunity may be presented. I remarked the other day, that this policy did not begin with us in New England; and yet, sir, New England is charged, with vehemence, as being favorable, or charged with equal vehemence, as being unfavorable to the tariff policy, just as best suits the time, place, and occasion for making some charge against her. The credulity of the public has been put to its extreme capacity of false impression, relative to her conduct, in this particular. Through all the South, during the late contest, it was New England policy, and a New England administration, that was afflicting the country with a tariff beyond all endurance; while on the other

side of the Allegany, even the act of 1828 itself, the very sublimated essence of oppression, according to southern opinions, was pronounced to be one of those blessings, for which the West was indebted to the "generous South."

'With large investments in manufacturing establishments, and many and various interests connected with and dependent on them, it is not to be expected that New England, any more than other portions of the country, will now consent to any measure, destructive or highly dangerous. The duty of the government, at the present moment, would seem to be to preserve, not to destroy: to maintain the position which it has assumed; and, for one, I shall feel it an indispensable obligation to hold it steady, as far as in my power, to that degree of protection which it has undertaken to bestow.—No more of the tariff.'

A slight, accidental circumstance in the life of Mr. Webster, will show how necessary it is for a statesman to be thoroughly acquainted with the whole history of his country to the greatest minuteness. In the summer of 1828, Mr. Webster visited the island of Nantucket, upon professional business, but was so much struck with the people and their place of residence, that he took pains to get all the information about the place and inhabitants he could readily find. He examined the island, apparently only a mound of sand, to the amount of twenty-three or four thousand acres, without forests, or even a grove to be seen; and only a few single trees which seemed to have been planted in doubt, and watched by care, without much faith in their growth. Yet, on this seemingly barren island, he ascertained that there were fifteen thousand sheep, three or four hundred cows, and one hundred and fifty horses, that wandered where they pleased, from one end to the other of this great pasture, summer and winter, spring and fall, and all thrived on the scanty grass which sprang up above the sand.

The inhabitants of this island he found a shrewd, intelligent people, amounting to nearly eight thousand souls, bearing all the strong marks of the primitive simplicity of their ancestors; and unlike, in many respects, any other maritime people that history has made us acquainted with. The island was settled in 1659 by emigrations from the towns of Salisbury and Amesbury, in the county of Essex, in Massachusetts. Many of those settlers who came to the island the second or third years after the proprietors (twenty-seven in number) had taken possession of the island, had fled from those towns from fear of the emissaries of Charles the Second, who pursued the friends and adherents of Hugh Peters with unrelenting severity, many of whom had come to Salisbury for security, but thought it wiser to take a less noted place. The island had been the favorite abode of a very large tribe of Indians, which had been carried off by a sweeping sickness that preceded the coming of the pilgrims. The English emigrants, unfortunately, in their hatred to a wilderness, felled the forest trees in order to extend their crops of English grain and Indian corn; but this act of clearing all smoothly, in the course of half a century, destroyed the island for tillage; for, in the long storms, the sand was blown across the island, and the arable soil was so deeply covered with those dancing atoms, that agricultural pursuits were nearly abandoned, and the inhabitants looked to the ocean for their support. At the close of the seventeenth, or at the commencement of the eighteenth century, these islanders began the whale fishery, which had been carried on at Cape Cod for some time before. This was done in boats of a shape that has given the name to a class of boats now used for despatch, called 'whale boats.' The whales became scarce along the shore, and larger boats were built to pursue them both north and south. In the wars the English and their colonies had with France, these islanders were exposed, and their business interrupted by privateers; in fact, they were often annoyed by the buccaniers in a previous age; but, notwithstanding every difficulty, the war of our revolution found them rich and flourishing.

At this time, 1775, they had reached the coast of Brazil, and were successful in taking whales there. In 1791, they doubled Cape Horn, and pursued the sperm whale into the Pacific, near the equator, many years with success. Within ten years past, finding their prey diminishing in numbers on their old cruising ground, and governed a little by that spirit of adventure, for which they not only acquired a reputation, but great wealth, pushed westward and circumnavigated the globe, in the ordinary course of their business. Mr. Webster was delighted with the government and economy of a whale ship; powers, duties, profits, honors, all properly apportioned, and yet admirably conjoined and brought to act with great energy and effect. If one of their whale ships does not bear the majesty of national strength and glory around the globe, it shows to every nation in every sea, what intelligence, enterprise, industry and perseverance can effect. The people abroad and the people at home are one. No men are more fond of home than these voyagers; they come back to their steril sands as to an Eden, for there they left all they held dear to their hearts; it is the sweet Argos from whence they sailed for the golden fleece; and they obtained it without robbing any of their fellow men.

The people of Nantucket are intelligent; for these whale ships, for nearly half the time while on their voyage are, in truth, Lyceums, where mathematics and natural history and general knowledge are taught. The log-books and journals of these whalers are well kept; the hand-writing in these books is good, and the reckonings admirably made, and every one does something towards making a minute history of the voyage.

On the island of Nantucket, he met with a philosopher, mathematician, and an astronomer, in Walter Folger, worthy to be ranked among the great discoverers in science. His ancestors, for a long line, on the island, have been distinguished for their knowledge of mathematics. Folger has invented a telescope, second only to Herschell's in power. This visit took deep hold on the feelings of Mr. Webster; it made a new item in his historical treasures.

Not long after this tour to Nantucket, the people of that island petitioned Congress for a break-water, or rather for an appropriation for a survey of the island and the waters washing it; which at length settled into an appropriation for deepening the channel to the principal harbor of this island. For ages, all the large vessels had to unload wholly or principally before they could be brought to the wharves. This probably would not have been brought about, if the information which Mr. Webster had obtained on his visit, had not in his forcible manner been concentrated and given to the Senate. To them, it was as novel as an Arabian tale; and as they knew he never spoke without day and date, words and figures, for proof, it satisfied all; the appropriation was voted for, and the work is going on with success.

It is the duty of all statesmen to make themselves acquainted not only with the general interests of the community in which they live; but also of the particular interests of each section of it, in order that they may assist when they should, and how they should. It happens not to a few of them, as Caius Marius alleged that it did to the Patrician generals of the Roman army: they first procured the command of armies, and then began to study the art of war. It has not been so with Mr. Webster; he has studied not only every general interest and principle, but every minute relation and bearing of those interests in the nation; and hence he has made himself a statesman worthy of the country; no lines, either of Mason, Dixon, or Boone, ever bounded his course of duties. He reasons for the country, and watches for the interests of each and all; for the raftsmen of the Penobscot, or for the boatmen of the Mississippi; for the merchant of the sea-board, or the manufacturer of the interior; nor has he yet ever given to party those mental energies, which were meant for mankind. He can say, with justice and truth, what Mirabeau said of himself; 'I have been, I am, I will be to my grave, the man of public liberty, the man of the constitution,' which extends to all, deals equal favor to all, protects all, and cannot be infringed without injuring all.

The intelligent mechanics of Boston having formed an association, called the *Boston Mechanic's Institution*, applied to Mr. Webster to give them a lecture at the opening of the course in November, 1828. It might be thought by some statesmen, and perhaps by some scientific men, that Mr. Webster's course of education had not prepared him for such a task; but it must be remembered, that he is a lawyer of more than twenty years' standing at the bar, and all this time has been in extensive practice in the highest courts of the country, in which not only constitutional questions are discussed, but mercantile transactions, and questions requiring broad views of almost every subject; and none requiring more information than some of those important trials upon patent rights. The lawyer, to do his duty to his client, must be acquainted with the principles of the mechanic arts, and sometimes also with the most minute details of them. Mr. Webster has been engaged in many of these patent causes, and to do his duty has made himself master of the laws of motion and the properties of matter far more accurately than any general reading would have done, for he has had often to consult with the inventer, perhaps enter the workshop and see every operation performed, in order to be able to explain these things to courts and juries who pass upon them. Mr. Webster was pleased to find such an institution springing up in his own city, and was willing to lend his aid for its success. These institutions, he was well aware, refine the taste and strengthen the intellectual powers of each member of the fraternity. They are stimulants to exertion, for each one is unwilling to be thought inferior to his neighbor, and he studies to be his equal, at least, and wisely thinks the ambition harmless, if he strive for the mastery in intellectual pursuits. Mind brought in amicable collision with mind produces scintillations of thought that do not expire as they are struck out, but increase to a permanent light. In most intellects there are seeds of true taste, and frequently of creative or imitative genius. Warmed by honest emulation and spurred on by generous rivalry, the younger portions of such associations make great exertions to obtain knowledge, and when encouraged by their seniors are ready to communicate it. Already in some other parts of our country mechanic

associations have grown into mechanic institutes, in which lectures are given on various branches of the arts and sciences. When a practical artist becomes scientific, he will soon find language to convey his thoughts, if he finds it difficult at first to get words to suit him. When these institutes are once established they seldom retrograde; there is an honest pride in such bodies, that will not suffer them to fall off in their exertions. He who feels the pride of being an instructer, will always be an indefatigable student himself. Youthful aspirants for the lecturer's chair occasionally will come forward in order to distinguish themselves. By this, the arts will be benefited, and information diffused among those who are not artists. If eloquence of a high order is not to be obtained in a lecture room, good plain speaking may be, and this is more valuable. Readiness and fluency follow clearness of perception, and that order and method necessary in conveying our thoughts on the laws of motion and power. The time, we trust, is not far distant when we shall see the young citizen pass from the workshop to the lecture-room as a matter of course in his education; and when the art and mystery of a trade will be taught him with the principles on which it is founded. It will not be questioned, that, if such institutes were generally formed, their influence would be generally felt in a moral point of view. Many hours that are now spent by the young mechanic in light amusements, by way of preparing himself for arduous labors, would be devoted to science, or to letters, so necessarily connected with it. Thus time would be saved; money would be saved; and sometimes, perhaps, reputation would be saved; and most certainly, moral and intellectual weight would be gained; and weight of character is not gained in a day; it is made up by the honest occupation of many years in youth and manhood, and can be preserved only by the sound exercise of the understanding. This lecture should be preserved as a model for compositions of this kind; not that many would reach the same standard, but the imitation would be well. The model should be far above what we expect to reach. The language is just such as it should be on such a subject, and the style of the composition precisely what Bacon would have used had he lived to have been, with his great genius, imbued with modern taste. There is no insinuating introduction, no appeal to the candor of his hearers, and all that unmeaning parade of courtesy; but after a sentence or two, he enters directly into his subject, and brings forward his topics without ceremony. He discusses motion as applied to change of place, to animal life, the earth, the ocean, the air, to all the physical objects which surround us, and is the exhaustless fountain from whence philosophy is drawn. He proceeds to the grand distinction of man, his intellectual powers, and shows that his information was fitted to his mind, for if he had not that wonderful instrument the hand, he could not avail himself of his gifts; and that the brute creation, if raised to the equality of reasoning man, could do but little without such an instrument to assist them. He adverted to the ancients, and compared their knowledge with that of modern times. The descriptive history and effects of the mechanical powers and arts were his next topic, and in this he was most happy. The useful subject, architecture, came also under his consideration, and he pursued it in all its forms; but leaving all other parts of this fine lecture, we extract that which relates to the mechanical arts.

'In the useful and practical arts, many inventions and contrivances, to the production of which the degree of ancient knowledge would appear to us to have been adequate, and which seem quite obvious, are yet of late origin. The application of water, for example, to turn a mill, is a thing not known to have been accomplished at all in Greece, and is not supposed to have been attempted at Rome, till in or near the age of Augustus. The production of the same effect by wind, is a still later invention. It dates only in the seventh century of our era. The propulsion of the saw, by any other power than that of the arm, is treated as a novelty in England, so late as in the middle of the sixteenth century. The Bishop of Ely, Ambassador from the Queen of England to the Pope, says, "he saw, at Lyons, a saw-mill driven with an upright wheel, and the water that makes it go is gathered into a narrow trough, which delivereth the same water to the wheels. This wheel hath a piece of timber put to the axletree end, like the handle of a *brock*, (a hand organ,) and fastened to the end of the saw, which being turned with the force of water, hoisteth up and down the saw, that it continually eateth in, and the handle of the same is kept in a rigall of wood, from severing. Also the timber lieth, as it were upon a ladder, which is brought by little and little to the saw by another vice." From this description of the primitive power-saw, it would seem that it was probably fast only at one end, and that the brock and rigall performed the part of the arm, in the common use of the hand-saw.

'It must always have been a very considerable object for men to possess, or obtain, the power of raising water, otherwise than by mere manual labor. Yet nothing like the common suction-pump has been found among rude nations. It has arrived at its present state only by slow and doubtful steps of improvement; and, indeed, in that

present state, however obvious and unattractive, it is something of an abstruse and refined invention. It was unknown in China, until Europeans visited the "Celestial Empire;" and is still unknown in other parts of Asia, beyond the pale of European settlements, or the reach of European communication. The Greeks and Romans are supposed to have been ignorant of it, in the early times of their history; and it is usually said to have come from Alexandria, where physical science was much cultivated by the Greek school, under the patronage of the Ptolemies.

'These few and scattered historical notices, gentlemen, of important inventions, have been introduced only for the purpose of suggesting that there is much which is both curious and instructive in the history of mechanics; and that many things which to us, in our state of knowledge, seem so obvious as that we should think they would at once force themselves on men's adoption; have, nevertheless, been accomplished slowly and by painful efforts.

'But if the history of the progress of the mechanical arts be interesting, still more so, doubtless, would be the exhibition of their present state, and a full display of the extent to which they are now carried. This field is much too wide even to be entered, on this occasion. The briefest outline even, would exceed its limits; and the whole subject will regularly fall to hands much more able to sustain it. The slightest glance, however, must convince us that mechanical power and mechanical skill, as they are now exhibited in Europe and America, mark an epoch in human history, worthy of all admiration. Machinery is made to perform what has formerly been the toil of human hands, to an extent that astonishes the most sanguine, with a degree of power to which no number of human arms is equal, and with such precision and exactness as almost to suggest the notion of reason and intelligence in the machines themselves. Every natural agent is put unrelentingly to the task. The winds work, the waters work, the elasticity of metals work: gravity is solicited into a thousand new forms of action: levers are multiplied upon levers: wheels revolve on the peripheries of other wheels; the saw and the plane are tortured into an accommodation to new uses, and, last of all, with inimitable power, and "with whirlwind sound," comes the potent agency of steam. In comparison with the past, what centuries of improvement has this single agent comprised, in the short compass of fifty years! Every where practicable, every where efficient, it has an arm a thousand times stronger than that of Hercules, and to which human ingenuity is capable of fitting a thousand times as many hands as belonged to Briareus. Steam is found, in triumphant operation, on the seas; and under the influence of its strong propulsion, the gallant ship,

> "Against the wind, against the tide
> Still *steadies*, with an upright keel."

It is on the rivers, and the boatman may repose on his oars; it is in highways, and begins to exert itself along the courses of land conveyance; it is at the bottom of mines, a thousand feet below the earth's surface; it is in the mill, and in the workshops of the trades. It rows, it pumps, it excavates, it carries, it draws, it lifts, it hammers, it spins, it weaves, it prints. It seems to say to men, at least to the class of artisans, "Leave off your manual labor, give over your bodily toil; bestow but your skill and reason to the directing of my power, and I will bear the toil,—with no muscle to grow weary, no nerve to relax, no breast to feel faintness." What further improvements may still be made in the use of this astonishing power, it is impossible to know, and it were vain to conjecture. What we do know, is, that it has most essentially altered the face of affairs, and that no visible limit yet appears beyond which its progress is seen to be impossible. If its power were now to be annihilated, if we were to miss it on the water and in the mills, it would seem as if we were going back to rude ages.

'This society then, gentlemen, is instituted for the purpose of further and further applying science to the arts, at a time when there is much of science to be applied. Philosophy and the Mathematics have attained to high degrees, and still stretch their wings, like the eagle. Chymistry, at the same time, acting in another direction, has made equally important discoveries, capable of a direct application to the purposes of life. Here again, within so short a period as the lives of some of us, almost all that is known has been learned. And while there is this aggregate of science, already vast, but still rapidly increasing, offering itself to the ingenuity of mechanical contrivance, there is a corresponding demand for every work and invention of art,—produced by the wants of a rich, an enterprising and an elegant age. Associations like this, therefore, have materials to work upon, ends to work for, and encouragement to work."

On his return from Washington in the spring of 1829, Mr. Webster had the misfortune to lose his brother, the Hon. Ezekiel Webster, a Counsellor at law in the State of New Hampshire. His death was sudden and remarkable; he fell and expired while

in the midst of an argument at the bar, without a sigh or a struggle. No event could have been more unexpected by the public, for he was one of those models for a picture of health and strength, that Salvator Rosa would have drawn in his mountain scenery, if he had wished to exhibit a commander able to bear the fatigues and duties of council and of war. He was lamented by his professional brethren, and sincerely mourned by the community at large.

Ezekiel Webster was two or three years older than his brother Daniel, but did not graduate until three years after him, in 1804. In college, he was the first in his class; his intellect was of a very high order; its capacity was general, for he was able to comprehend the abstruse and difficult, and at the same time to enjoy the tasteful and the elegant. He was distinguished for classical literature. His knowledge of Greek, particularly, was beyond that of his contemporaries in college; and this is almost an unqualified proof of taste, when the study is pursued from a real fondness for the language, and not merely for the pride of learning, or for the rewards of superiority.

His knowledge of English literature was deep and extensive, for he had not skimmed over books as a matter of amusement, but he looked into them as a man of mind, who intends to draw lessons from all he reads. Few men among our scholars knew so much of the English poets as he did, and he valued them as he should have done, as philosophers and painters of human nature, from whom much knowledge may be obtained to illustrate and adorn what duller minds have put into maxims and rules.

He made himself master of the law as a science, and became well acquainted with its practice in his native State. He went up to first principles with the ease and directness of a great mind, and separated at once that which was casual and local, from that which is permanent and founded on the basis of moral justice and the nature of man. There seemed no effort in any thing he did; all was natural and easy, as if intuitive. There was nothing about him of that little bustling smartness so often seen in ordinary persons, striving to perform something to attract the attention of the little world around them.

His general information was not only extensive, but laid up in excellent order, ready for use. He was steadily engaged in the duties of his profession, but never seemed hurried or confused in his business. He took all calmly and quietly. He did nothing for parade or show, or mere effect, nor did he speak to the audience while addressing the court and jury. His life was passed in habits of industry and perseverance; and his accumulations of wealth and knowledge were regular and rapid. From the commencement of his life as a reasoning being, responsible for his own actions to the close of it, he preserved the most perfect consistency of character; no paroxysms of passion, no eccentricities of genius, were ever found in him. His equanimity was only equalled by his firmness of purpose. In this he was most conspicuous; he thought leisurely and cautiously, and having made up his mind, he was steadfast and immovable. Having no hasty or premature thoughts, he seldom had occasion to change his opinions, and was, therefore, free from those mortifying repentances, so common to superior minds of warmer temperament. By honesty of purpose and soundness of judgment he kept a just balance in weighing all matters before him. All this firmness and equanimity, and other virtues, seemed constitutional, and not made up by those exertions so necessary to most frail beings, who intend to support a character for steady habits. He was blessed with a frame that felt few or no infirmities, such as weaken the nerves and bring down the mighty in intellect to those degrading superstitions that stain the brightness of genius and destroy the high hopes of immortal beings, and make them slaves to darkness and absurdity. He suffered no moral or mental weakness in his whole path of duty, for his constitution, until within a short time of his death, exhibited a sound mind in a sound body, and neither appeared essentially injured or decayed, to the hour of his exit from this world.

He never sought public honors, nor literary or political distinctions, and therefore had none of those throes and agonies so common to vaulting ambition; not that he declined all public trusts, when he was conscious that he could do any good to his fellow men. He was several years a member of one or other branch of the Legislature of New Hampshire, and served as a trustee of Dartmouth College. He was at different times put up for a member of Congress, but it was at periods when his friends thought that his name would do some good to his political party, as the members of Congress in New Hampshire are chosen by a general ticket; but when they were decidedly in power, he would seldom or never consent to be a candidate. This was much to be regretted, for he was admirably calculated for public life by his extensive knowledge and incorruptible integrity. He would have been a first rate speaker on the floor of Congress. His eloquence was impressive and commanding. There was in his delivery a slight defect in the labial sounds—in the familiar use of his voice, which was rather pleasant to the listener than otherwise, for it was a proof of a natural manner; but warmed by his subject, a more rich, full, and sonorous voice was

seldom heard in any public body; not that his tones were delicate or mellifluous, but full of majesty and command, free from arrogance, timidity, or hesitation. His gestures were graceful, but not in the slightest degree studied; his language was rich, gentlemanly, select, but not painfully chosen; he not only had words for all occasions, but the very words he should have used.

As a writer he excelled in judgment and taste: there was a classical elegance in his familiar writings; and his higher compositions were marked with that lucid order and clearness of thought and purity of expression, which distinguished the Augustan age. His sentences were not grappled together by hooks of steel, but connected by golden hinges, that made a harmonious whole. His library was rich in works of merit, ancient and modern. The history of literature and science was as familiar to him as that of his native State, and he had the means of turning to it with much greater facility.

He was an instance in point that a man may be a good lawyer, and yet devote some of his time to classical pursuits.

Ezekiel Webster was one of those great men, rare instances in the world, who had thrown away ambition; and who preferred to be learned and happy in his course of life, rather than to court the gale and spread his sails, to be wafted along on popular opinion. He sought not popularity, but he had it; *that popularity which follows, not that which is run after*. He watched the signs of the times, and was as good a diviner in politics as any one; but whatever the presages were, he looked at coming events unmoved, leaving their results to Heaven.

For several of the last years of his life, he was curtailing his business in order to devote some portion of the prime of his manhood to literary and scientific pursuits, so congenial to his heart; but in this he was disappointed, for yet while in the fulness of his strength he was called to leave the world, for whose benefit he was formed. The ways of Providence are right, however hidden the laws are from us. It is to be regretted that one so able should have written so little as he has; probably he was waiting for those hours of leisure, in which he was contemplating to form his plan of some literary work. The writer of these remarks,—his classmate and his friend,—once suggested to him the history of his native State as a subject for his pen, and the thought did not seem unpleasant to him. In the boyish days of the writer, he undertook to translate Anacreon, and carried his productions daily for the corrections of his friend, whose mature mind gave the translation all the finish it possessed.

No one he ever knew had a more admirable spirit of criticism than Ezekiel Webster, united with that generous indulgence which only great minds feel and practice. A few months before he died, some symptoms of a disease of the heart were perceptible, but not alarming to his friends, but he knew the uncertainty of human life, and without any special command *set his house in order*, and made preparation for his long journey. There is a beauty in that calm, deep, silent, religious feeling, that none but great and pure minds can ever know. After having put all his worldly affairs into a most perfect train for settlement at his death, and wishing his friends to be free from all doubts upon his religious impressions and belief, he sat down and wrote his sentiments on this momentous subject, which were found on his table after his death. This was his last composition. How true it is, that the enjoyment of health, the accumulating of wealth, the pursuits of science and the love of letters, and the world's applause, sanctioned by the good man's benison, are not sufficient for an immortal mind. All these things are, in a great measure, connected with fellow mortals, and are finite in their influences upon the mind, while religion is a connexion with infinity,—with Deity,—it enters into eternity, leaves time and sense to earth, and by the bright inspirations of faith takes *the sting from Death, and from the grave its victory*. A great mind accustomed to 'long converse with the invisible world,' and seeing day after day, his friends falling around him, breathes, as each descends to the tomb,

'How dreary is this gulf! how dark—how void—
The trackless shores, that never were repass'd!
Dread separation! on the depth untried,
Hope falters, and the soul recoils aghast!—

'Wide round the spacious heav'ns I cast my eyes;
And shall these stars glow with immmortal fire!
Still shine the lifeless glories of the skies!
And could thy bright, thy living soul expire!—

'Far be the thought! The pleasures most sublime,
The glow of friendship, and the virtuous tear,
The soaring wish that scorns the bounds of time,
Chill'd in the vale of death, but languish here.'

The adoption of the Constitution of the United States was almost a miracle of itself. It was effected by the perseverance of the first intelligence of the land. The patriots who reasoned as well as felt, found all their labors would be lost, if something towards concentrating the energies and giving a uniformity to commercial regulations were not effected. The whole matter was a compromise, and but few were entirely satisfied. There can be no doubt, but that a portion of the community thought the Constitution was too feeble to last long, they supposed that its tendency would be towards democracy, and that after a while difficulties would arise, such as it would be impossible to overcome. Some believed that it would, from year to year, grow more aristocratic, and therefore watched every thing, excited by fear that all would be lost in the power of the few. Between hopes and fears the machine went on, to the wonder and satisfaction of almost every one. The instrument was likened to the Amphictyonic league, and considered as if there were something sacred about it. Others said, that it was modelled on the principles of the United Provinces; and there was some truth in that. The framers of the old Confederation, no doubt, had that compact in view when the States, by their delegates, first assembled at Philadelphia; and there were not a few who wished to find a resemblance in our government to that of the Swiss cantons. Whatever each one thought, certain it is, that there were some points of it differently construed by sagacious men in different parts of the country; but all seemed to wish to give it a fair experiment. The power of the judiciary was viewed with jealousy by the South and many other parts of the country. Many portions of our fellow-citizens reposed so much confidence in the judiciary, that they thought all was safe while that branch of the government was unassailed. The Supreme Court had maintained a dignified course, not courting cases in which constitutional questions were involved, but meeting them manfully when they were directly brought before them. The East considered the embargo an unconstitutional act, inasmuch as it annihilated, instead of regulating commerce. This question was freely discussed in the legislatures of some of the New England States; but whatever might be their opinions on the subject, it was thought to be most constitutional to bring the matter before the Supreme Judicial Court. This was done, and its constitutionality supported. The people of New England acquiesced. In 1816, a tariff was laid by southern votes. There was no objection made to the constitutionality of the law. In 1824, the Middle and Western States got up another tariff bill, to a greater part of which the East was opposed, and it was not carried by their votes. In 1826, this bill was amended by the Middle States, aided by New England, who had so far changed their business, as to wish for that which they had been opposed to a short time before. The course Mr. Webster took in this change has been previously mentioned. The South were enraged at this act, and saw ten thousand evils in it, that have not been realized and never will be. In this excitement intemperate resolutions were promulgated at several meetings in South Carolina; and members of Congress in both houses from that State, as well as from some other States, took every opportunity to vent their indignation in debate, whether the subject would strictly warrant it or not.

On the 29th of December, 1829, a resolution was introduced into the Senate by Mr. Foote, respecting the sale of public lands. The resolution was in the following words:—

'*Resolved*, That the Committee on Public Lands be instructed to inquire and report the quantity of public lands remaining unsold within each State and Territory; and whether it be expedient to limit, for a certain period, the sales of the public lands to such lands only as have been heretofore offered for sale, and are now subject to entry at the minimum price. And, also, whether the office of Surveyor-General, and some of the land offices may not be abolished without detriment to the public interests; or whether it be expedient to adopt measures to hasten the sales and extend more rapidly the surveys of the public lands.'

On the 18th of January, Mr. Benton, of Missouri, addressed the Senate upon the subject, and took a wide latitude in debate. On the 19th, Mr. Hayne proceeded in the debate, and adopted all the strange doctrines which Mr. Benton had avowed. He travelled widely out of the true course of the debate, to find fault with men and measures of former times, and particularly of the course pursued by the East on many occasions. On the 20th, Mr. Webster took the floor in reply. He had intended to take no part in the debate, for he could not have imagined that it would have taken such a range; but he felt that he was bound to go out, though unarmed, when his views, his whole course of political conduct, and that portion of the country which gave him birth, were all so rudely treated. The effect of this day's speech was powerful. He met and answered Mr. Hayne's attack upon the policy of the United States towards the purchasers of Western lands, which Mr. Hayne seemed to think was hard, rigorous and unfeeling. Mr. Webster proved that it was not only just, but pre-

cisely what it ought to have been, to build up the West solidly and prosperously. He dwelt on the arduous duties of the Government, to plant these territories and defend them against the most powerful tribes of Indians known on the continent. To prove the vast amount of the expenses of these frontiers, he pointed to the exertions and the sufferings of Harman and St. Clair; and for the wisdom of the policy, to the growth, the magic growth, of Ohio. To make it plain, he ran over the history of this growth, and urged the claims of those who fought the battles of the revolution to the lands in order to pay them for their services.

Mr. Webster denied that the tariff belonged to the East. New England was not the author of it. He contended that she had ever been kind and generous to the West, that her policy was liberal to the South and West. He challenged a recurrence to all her votes in those times, in which she was supposed to be most unfriendly to the Western States, for the correctness of her conduct.

Mr. Benton replied to this speech, and Mr. Hayne followed with no little excitement. He refused to postpone the subject, and wished for an opportunity to return the fire he had received. Mr. Webster's friends asked for him some delay, as they knew his engagements in the Supreme Court at that time: he, however, wished the discussion to proceed. Mr. Hayne then made a speech of great length, in which he enlarged his former accusations, and enforced anew his own doctrines. Mr. Webster followed.

In this speech, on the 26th of January, he turned upon Mr. Hayne and threw back his sarcasms with great dignity and effect. The North was ably vindicated, by the best of all possible methods, by appealing directly to the history of past ages, and bringing up her deeds from the commencement of the Government; or, rather, before the Constitution was formed down to the present day. All was clear as sunshine.—The clouds were swept away, if there were those who were bewildered by assertion, or for a moment darkened by erroneous statements made with the solemnity of truth. Mr. Webster defended the Northern and Eastern States in their course of conduct towards the West, particularly as that had been a second time the burden of Mr. Hayne's philippic.

Mr. Webster went through the charges against the East, the Federalists, and all the sins of omission and commission alleged against them, with fearless appeals to the journals of the House and Senate, to every page of information, within doors and without; but without any narrow spirit or sectional partialities. He paid that homage to the illustrious men of South Carolina, that a great mind always feels for departed genius and worth, wherever born, or in whatever age their virtues were stamped.—He went farther, and expressed his pride in calling 'the Lawrenses, the Rutledges, the Pinckneys, the Sumpters, the Marions, Americans, all—whose fame is no more to be hemmed in by State lines, than their talents and patriotism were capable of being circumscribed within the same narrow limits.' His description of their patriotic course,—of their deeds,—as united with the East, in the great revolutionary conflict, 'when they went shoulder to shoulder,' through the perils of the hour; and when they together rallied around the father of his country, 'and felt his own great arm lean on them for support,' was full of life and truth. The orator turned to Massachusetts, but instantly *left her alone in her glory.* All this was noble; it showed the orator, the statesman, and the able defender of all those who looked to him for a just and fair representation of them and their history; who looked to him, also, as an advocate with the world for their claims to pure republican principles and patriotic exertions. He would not suffer his friends to be charged with faults, without daring their accusers to the proof; nor slandered without repelling the falsehoods with an honest zeal for their fame. Ages may pass away before such another opportunity will be given for such another defence.

It was not this part of the oration, eloquent as it was, abounding in almost every species of the divine art, that made the most valuable portion of it; it was not the keen irony, the lucid explanation, the spirited retort, the proud defence, the irresistible answer, that this great production contained, that shall live the longest among his fellow men. It is the full, fair and noble commentary on the Constitution, that is to run onward as long as that Constitution shall last; and to survive it, if it should crumble to the dust, that will exist for ever, and be a standard for future ages. This was not a commentary made by a theorist in his closet, who had no practical knowledge on the subject; no, it was an examination made by a statesman, on the floor of the Senate, before statesmen, in the hearing of the country; where the slightest error in fact would have been corrected on the spot. What sages had said, what politicians had suggested, and practical men had effected, all came bursting from his memory in a flood of light, and illumined all around him. He denied the doctrine that this Constitution was a compact between the Thirteen States, which was binding on them only as States, and on other States which might be admitted into the

Union; but contended that it was from the people, made by them, in their name, in their natural capacity; and that, as far as the States particularly interfered in the formation of the instrument, was only a method of getting the voices of the people. The acts done under this Constitution were not to receive their constructions from the opinions of any State, but were to be tested, if disputed, by tribunals provided for in the Constitution itself. He stated the doctrine as held by the gentleman from South Carolina:

'I understand the honorable gentleman from South Carolina to maintain, that it is a right of the State Legislatures to interfere, whenever, in their judgment, this Government transcends its constitutional limits, and to arrest the operation of its laws.

'I understand him to maintain this right, as a right existing *under* the Constitution, not as a right to overthrow it, on the ground of extreme necessity, such as would justify violent revolution.

'I understand him to maintain an authority, on the part of the States, thus to interfere, for the purpose of correcting the exercise of power by the General Government, of checking it, and of compelling it to conform to their opinion of the extent of its powers.

'I understand him to maintain, that the ultimate power of judging of the constitutional extent of its own authority, is not lodged exclusively in the General Government, or any branch of it: but that, on the contrary, the States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the General Government transcends its power.

'I understand him to insist, that if the exigency of the case, in the opinion of any State Government require it, such State Government may, by its own sovereign authority, annul an act of the General Government, which it deems plainly and palpably unconstitutional.'

These heads were examined singly, as they were stated, and their fallacy exposed, and the sophistry that supported them put down, by the strong hand of truth and the power of reason. He showed the impracticability of carrying into effect the gentleman's mode of testing the constitutionality of an act of Congress; that the very attempt would be treason, however sincere and patriotic the intention. These speeches of Mr. Hayne and Mr. Webster flew on ten thousand wings to every part of the Union; and the explanations and elucidations of all and every part of the Constitution, as given by Mr. Webster, were hailed by a great proportion of the freemen of the United States as full, sound, just, and satisfactory. The people, as a body of men, on abstract questions, are clear headed; they cannot be gulled or dazzled by any one,—with a noble obstinacy they will judge for themselves. On a great constitutional question, they never stop to ask to what party the expounder belongs, or from what section of the country he came; these are matters of after thought. They avow their concordance of sentiment and opinion first, and then inquire from whence came the man. This speech was not only found in the columns of the periodical journals, but assumed a more permanent shape, and was purchased as a stock-book. It was again read by young and old, and listened to by learned and unlearned,—by women and children,—and discussed in every circle. It was impossible to do justice to the speech by extracts taken here and there, as is usual; one might as well give the breadth and height of the tower whose top reached towards the heavens, by examining a Babylonish brick, as to give an idea of the whole of this great argument by exhibiting a shred or two of it. This tower of intellectual strength is reserved for a different fate from that erected on the plains of Shinar; for instead of confusing the minds and confounding the language of men, it has brought all the jarring tongues and different interpretations to one voice and one construction upon the Constitution of our country. Although we have forborne to make extracts, for fear of injuring the force of the argument presented to the public,—which seems a sort of galvanic battery, in which by removing a single piece you may weaken the force of the whole,—yet we may take the closing paragraph, which makes a chaste and beautiful ornament for the pillar on which he has rested an item of his fame, to show something of his taste as well as of his powers of reasoning.

'But, sir, what is this danger, and what the grounds of it? Let it be remembered, that the Constitution of the United States is not unalterable. It is to continue in its present form no longer than the people who established it shall choose to continue it. If they shall become convinced that they have made an injudicious or inexpedient partition and distribution of power, between the State Governments and the General Government, they can alter that distribution at will.

'If any thing be found in the national Constitution, either by original provision, or subsequent interpretation, which ought not to be in it, the people know how to get rid of it. If any construction be established, unacceptable to them, so as to become, practically, a part of the Constitution, they will amend it, at their own sovereign

pleasure, but while the people choose to maintain it as it is,—while they are satisfied with it, and refuse to change it,—who has given, or who can give, to the State Legislatures, a right to alter it, either by interference, construction or otherwise? Gentlemen do not seem to recollect that the people have any power to do any thing for themselves; they imagine there is no safety for them, any longer than they are under the close guardianship of the State Legislatures. Sir, the people have not trusted their safety, in regard to the general Constitution, to these hands. They have required other security, and taken other bonds. They have chosen to trust themselves, first, to the plain words of the instrument, and to such construction as the Government itself, in doubtful cases, should put on its own powers, under their oaths of office, and subject to their responsibility to them; just as the people of a State trust their own State Governments with a similar power. Secondly, they have reposed their trust in the efficacy of frequent elections, and in their own power to remove their own servants and agents, whenever they see cause. Thirdly, they have reposed trust in the judicial power, which, in order that it might be trust-worthy, they have made as respectable, as disinterested, and as independent as was practicable. Fourthly, they have seen fit to rely, in case of necessity, or high expediency, on their known and admitted power, to alter or amend the Constitution, peaceably, and quietly, whenever experience shall point out defects or imperfections. And, finally, the people of the United States have, at no time, in no way, directly or indirectly, authorized any State Legislature to construe or interpret *their* high instrument of Government; much less to interfere, by their own power, to arrest its course and operation.

'If, sir, the people, in these respects, had done otherwise than they have done, their Constitution could neither have been preserved, nor would it have been worth preserving. And, if its plain provisions shall now be disregarded, and these new doctrines interpolated in it, it will become as feeble and helpless a being, as its enemies, whether early or more recent, could possibly desire. It will exist in every State, but as a poor dependent on State permission. It must borrow leave to be; and will be, no longer than State pleasure, or State discretion, sees fit to grant the indulgence, and to prolong its poor existence.

'But, sir, although there are fears, there are hopes also. The people have preserved this, their own chosen Constitution, for forty years, and have seen their happiness, prosperity, and renown, grow with its growth, and strengthen with its strength. They are now, generally, strongly attached to it. Overthrown by direct assault, it cannot be; evaded, undermined, NULLIFIED, it will not be, if we, and those who shall succeed us here, as agents and representatives of the people, shall, conscientiously and vigilantly discharge the two great branches of our public trust,—faithfully to preserve, and wisely to administer it.

'Mr. President, I have thus stated the reasons of my dissent to the doctrines which have been advanced and maintained. I am conscious of having detained you and the Senate much too long. I was drawn into the debate, with no previous deliberation such as is suited to the discussion of so grave and important a subject. But it is a subject of which my heart is full, and I have not been willing to suppress the utterance of its spontaneous sentiments. I cannot, even now, persuade myself to relinquish it, without expressing once more, my deep conviction, that, since it respects nothing less than the union of the States, it is of most vital and essential importance to the public happiness. I profess, sir, in my career, hitherto, to have kept steadily in view the prosperity and honor of the whole country, and the preservation of our Federal Union. It is to that union we owe our safety at home, and our consideration and dignity abroad. It is to that union that we are chiefly indebted for whatever makes us most proud of our country. That union we reached only by the discipline of our virtues in the severe school of adversity. It had its origin in the necessities of disordered finance, prostrate commerce, and ruined credit. Under its benign influences, these great interests immediately awoke, as from the dead, and sprang forth with newness of life. Every year of its duration has teemed with fresh proofs of its utility and its blessings; and, although our territory has stretched out wider and wider, and our population spread farther and farther, they have not outrun its protection or its benefits. It has been to us all a copious fountain of national, social, and personal happiness. I have not allowed myself, sir, to look beyond the union, to see what might be hidden in the dark recess behind. I have not coolly weighed the chances of preserving liberty when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion, to see whether, with my short sight, I can fathom the depth of the abyss below; nor could I regard him as a safe counsellor in the affairs of this Government, whose thoughts should be mainly bent on considering, not how the Union should be best preserved, but how tolerable might be the condition of the people when it shall be broken up and destroyed. While the Union lasts, we have high, exciting, gratifying prospects

spread out before us, for us and our children. Beyond that I seek not to penetrate the veil. God grant that, in my day, at least, that curtain may not rise. God grant, that on my vision never may be opened what lies behind. When my eyes shall be turned to behold, for the last time, the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood!—Let their last feeble and lingering glance, rather behold the gorgeous ensign of the Republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, nor a single star obscured—bearing for its motto, no such miserable interrogatory, as *What is all this worth?* Nor those other words of delusion and folly, *Liberty first, and Union afterwards*—but every where, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty *and* Union, now and for ever, one and inseparable!'

It has fallen to the lot of Mr. Webster to have been called upon to express his opinion upon all the great questions which have been agitated in the community since he has been upon the stage. He has been too cautious to obtrude a premature opinion on any subject, but when his mind has been made up and when properly called upon, he has always expressed himself directly, without any of that double meaning so common with political aspirants. On the great question of the power given to Congress by the Constitution to make internal improvements he has in many of his speeches been explicit, but at the same time added, that it was a power that should be most discreetly used. The opposition to this doctrine is diminishing, upon the conviction of its usefulness in extending the beneficial effects of the General Government, particularly on the seaboard and frontiers.

Though it is not directly in his pathway as a lawyer, he has been called upon to give his opinion upon the subject of the abolishment of imprisonment for debt. There has been no little bitterness of feeling upon this question. The most zealous advocates for the abolition, thinking to get all they asked for at once, would not consent to proceed by degrees to the accomplishment of their wishes, as they should have done. They were for knocking off all the shackles at once and be free as air. In this, they showed more spirit than prudence, or knowledge of human nature. The supporters of the iron system took advantage of the imperative tone of their opponents, and by alarming the timid and the doubtful, still kept the majority in New England on their side,—and sometimes,—a most miserable policy,—secured the bolts and bars of the prison more closely; for break they must,—the decree of common sense and sound policy has gone forth and will be obeyed, however hard the struggle and desperate the fight.

The progress of liberal opinion has been gradual even in New England, and many who were at first opposed to the abolishment of imprisonment are now friendly to it, having examined the subject more thoroughly. The liberal views of several of the first men of New England on this subject, expressed many years ago, ought not now to be forgotten. Thomas H. Perkins, a most opulent merchant and a high minded gentleman in Boston, ten or twelve years past, took lead in attempting to ameliorate or repeal the laws on imprisonment for debt in Massachusetts; and more than twenty years ago a refined and polished scholar, and an honorable merchant, Benjamin Pickman of Salem, avowed the strange doctrine, for that day, that there should be no imprisonment for the honest debtor. His exalted moral purity and weight of intellectual character, must have had some influence even then, but he has lived to see his principles gain ground; and in many States obtain ultimate success.

Some years since, a benevolent society was formed in Boston, which, among other matters, took up the subject of imprisonment for debt. They began in the right way to insure ultimate success, and that was to accumulate all the necessary facts to enlighten the people. The investigation astonished themselves, for this examination clearly proved that imprisonment instead of being a mean of coercing the collection of debts was only disguised vengeance on the part of the creditor in nine cases out of ten. These details they spread before the public, and it must be confessed that this has done more than arguments, in furtherance of their benevolent views. Not resting here, they wished to fortify themselves by the deliberate opinion of men, who do and ought to give direction in no small degree to public opinion, and they directed letters to several gentlemen of distinction in Massachusetts, requesting opinions upon certain propositions, which taken together involved all the principles discussed in relation to imprisonment for debt. Judge Jackson, Mr. E. Everett, Mr. Webster, returned answers to the managers, and although there is no probability that there was any concert among them, yet the spirit of their answers was the same.

The public are much indebted to this society, for they have not only measured and

gauged the miseries caused by oppressive laws and injurious practices, but they have taken the best method of bringing about reform. The facts stated by the great philanthropist, Howard, collected in his tour of humanity, were a thousand times more valuable than his charities, which were numerous and well bestowed. The disclosures that he published, set the humane to thinking on and examining the subject of the state of prisons; he brought the abuses of power home to every one by words and figures. There can be no fear but that a moral people will act right when they know the whole matter; but it is difficult to get at the truth, when there are so many interested, as they think, to keep the truth out of sight; but the truth which has been so long concealed is now bursting upon us. We have been influenced by exaggerated or fictitious fears, while we were closing our eyes against real ones in our very neighborhood. How many have wept over the wretched prisoner of State in the bastile? The story of the man in the iron mask has been told, until we were almost suffocated with the pressure of the weight of the machine upon our throats. We have followed the condemned one over the Bridge of Sighs, and shrieked in our reveries as we saw him enter the prison, never more to return. These instances of cruelty are shocking to the feelings of a free and humane people, they burn with indignation at such oppression, and are ready for a crusade against such enormities. Why sleeps the vengeance of God when such cruel scenes are enacted? is their exclamation. This is natural, this is honest; it is honorable to human nature; but it would be well for us to spare ourselves all these writhings of sensibility for the bastile and the dungeons of Venice. These prisons were not crowded; for years they had no inmates,—and seldom was there a State victim in France or in Venice; but in our land of freedom, hundreds and tens of hundreds have been jammed into county jails, for paltry debts which they were unable to pay; and even kept there by the power of some petty, heartless tyrant, until their spirits were broken, and their health and morals destroyed, and no one among us laid it to heart.

Let spendthrift folly be chastised by the law; let fraud be punished as severely as you will; but in the name of justice set free, after due examination, the honest debtor, who has struggled to pay all he could, and deplores that he can do no more. There is hope for the wretched, for humanity has penetrated the darkest cells of the prison-house, and taken an inventory of all the miseries there to be known; and this is not all, strong voices, which must and will be heard, are calling aloud to the people from every quarter, to wrench the bolts, to burst the bars, and to demolish the dark pile, where honest poverty is confined with cut-throat villany, and reserve the dungeon alone for the felon.

We are happy in pausing a moment in our progress, from one public monument to another in the life of Mr. Webster, to notice this subject, so deeply effecting the community.

To such men as have given their opinion freely upon the questions which were proposed by this society, we would say, as the father of mankind did to the celestial messenger, who had freely answered many inquiries of high import,

'Thou to mankind
Be good and friendly still, and oft return!'

Letter addressed to Rev. Louis Dwight, Secretary of the Prison Discipline Society, on the Subject of Imprisonment for Debt.

Washington, May 2, 1830.

'Sir,—I have received your letter of the 5th of April, asking my opinion upon several questions, all relative to the subject of imprisonment for debt. I am quite willing to express my general opinions on that interesting subject, although they are not so matured as to be entitled to influence other men's judgments. The existing laws, I think, call loudly for revision and amendment. Your first four questions seek to know what I think of imprisonment for small sums. I am decidedly against it; I would carry the exemption to debts of thirty or forty dollars, at least. Individual instances of evil or hardship might, I am aware, follow from such a change; but I am persuaded the general result would be favorable, in a high degree, to industry, sobriety, and good morals, as well as to personal liberty.

'You ask, in the next place, what I think of imprisonment for debt in any case where there is no evidence of fraud. Certainly I am of opinion that there should be no imprisonment for debt, where it appears that no fraud has been practised, or intended, either in contracting the debt, or in omitting to pay it. But then, it seems to me, that, when a man does not fulfil a lawful promise, he ought to show his inability, and to show also that his own conduct has been fair and honest. He ought not to be allowed merely *to say* he cannot pay, and then to call on the creditor to *prove* that his inability is pretended or fraudulent. He ought to show why he does not and cannot

fulfil his contract, and to give reasonable evidence that he has not acted fraudulently; and, this being done, his person ought to be held no longer. In the first place, the creditor is entitled to the oath of his debtor, and, in the next place, to satisfactory explanation of any suspicious circumstances.

'There are two sorts of fraud, either of which, when proved, ought to prevent a liberation of the person, viz.: fraud in contracting the debt, and fraud in concealing, or making way with, the means of payment. And the usual provisions of the bankrupt act ought to be added, that no one should be discharged, who is proved to have lost money in any species of gaming; and I should include, in this class, *all adventurers in lotteries*. Having tendered his own oath, and made just explanation of any circumstances of suspicion, if there be such, and not having lost money by gaming, the debtor ought to be discharged at once; which answers another of your questions; for the detention of thirty days, before the oath can be taken, appears to me wholly useless.

'You are pleased to ask whether, in my judgment, Christians can, with a good conscience, imprison either other Christians or infidels? He would be very little of a Christian, I think, who should make a difference, in such a case, and be willing to use a degree of severity towards Jew and Greek, which he would not use towards one of his own faith. Whether conscientious men can imprison any body for debt, whom they do not believe dishonest or fraudulent, is a question which every man, while the law allows such imprisonment, must decide for himself. In answer to your inquiry, whether I have found it necessary to use such coercion, in regard to debts of my own, I have to say, that I never imprisoned any man for my own debt, under any circumstances; nor have I, in five and twenty years' professional practice, ever recommended it to others, except in cases where there was manifest proof, or violent and unexplained suspicion of intentional fraud.

'Imprisonment for debt, my dear sir, as it is now practised, is, in my judgment, a great evil; and, it seems to me, an effectual remedy for the larger part of the evil is obvious. Nineteen twentieths of the whole of it would be relieved, in my opinion, if imprisonment for *small debts* were to be abolished. That object I believe to be attainable; and to its attainment, I think, the main attention of those who take an interest in the subject should be directed. Small credits are often given, on the confidence of being able to collect the debt by the terrors of the jail; great ones, seldom or never.

'Three simple provisions would accomplish all, in my opinion, that may be considered as absolutely required to a just state of the law, respecting imprisonment for debt in Massachusetts.

'1. That no imprisonment should be allowed, when the debts, exclusive of costs, did not amount to $30.

'2. That there should be no necessity of imprisonment for thirty days, as preliminary to taking the poor debtor's oath; nor any longer detention than such as is necessary to give parties notice, and time to prepare for examination; and that a convenient number of magistrates, in every county, should, for the purpose of administering the oaths, be appointed by the government; and that such magistrates should be clothed with such further powers as might be thought expedient, in order to enable them to make a thorough investigation of the fairness or fraud of the debtor's conduct.

'3. That in cases where the debtor had been discharged, if the creditor would make oath to newly discovered evidence, proving original fraud, or, to his belief, that the debtor had subsequently received property, and concealed or withheld the same from his creditors, it should be competent to such creditor to have investigation of such charge, and, if made out, to have execution against the person, and if not made out, that the creditor should pay the cost of the proceeding.

'Other provisions might doubtless be useful; but if these three alone could be obtained, they would, in a great measure, clear the jails of debtors, and give general satisfaction, I have no doubt, to creditors.

'I ought to add, that the imprisonment of females in the common jails, for mere debt, is a barbarism which ought not to be tolerated. Instances of such imprisonment, though rare, do yet sometimes occur, under circumstances that shock every humane mind. In this respect, the law ought, in my judgment, to be altogether reformed.'

In an earlier part of this memoir, we noticed some few of the forensic speeches of Mr. Webster, but a very small number of them only could be named or noticed with critical remarks, even if this work were extended to half a dozen volumes, and we had the notes from which they might be taken; for he has now been twenty-six years at the bar, and in full practice in higher and in inferior courts also a portion of the time, and in that period he has argued more than a thousand causes of importance, besides an immense number of those which are necessarily forgotten with the common business of the day. Many of those, both of the greater and the lesser kind

are lost, irrevocably lost, but their effects on court and jury will be long remembered. Some of them no doubt, made when there were no restraints upon him, and when in the hours of health and spirits, had as much power and more brilliancy than his efforts made in high places with reporters at his elbow. The world has been favored but with few volumes of forensic eloquence, in comparison with the number of speeches preserved from the debates of deliberative bodies. One reason for this scarcity has been, that these productions do not always convey the honest dictates of the speaker's understanding, and of course satisfied with whatever ingenuity he may have exhibited at the time, or with the praise he may have received, he is not desirous that his argument should be preserved; and when he and his friends are satisfied that his logic is sound, and his argument felicitous, it is difficult to preserve an extemporaneous speech, unless there be some strong inducement for the speaker to sit down and write it out from his notes, and it would be almost impossible for one in full practice to do this often. The late Judge Parsons, who for more than thirty years held the first rank at the bar of Massachusetts, and with it the reputation of being among the greatest geniuses and profoundest scholars of the world, has not left, as far as is now disclosed, a page of any argument he ever made before court or jury, and the evidences of his greatness rest on his judicial opinions as a Chief Justice, an office which he only held about seven years previous to his death. Parsons lived in a time when the great elements which are incorporated with our national Constitution were coming into form and substance, and he was one of the most powerful agents in giving it the noble stamp it has borne ever since. Yet nothing is to be found of this great man's forensic eloquence on paper; it lives only in the memories of those who loved him, and were so fortunate as to have heard him at the bar. Of the forensic eloquence of Dexter only a few shreds of speeches remain. Of all their predecessors of mighty name and long life in New England, you might as well ask the sea to give up its dead, as to inquire for what they said on the most vital occasions. Oblivion has devoured them all, and hardly has their plunge into the abyss of the great destroyer been remembered. Not ten of Mr. Webster's speeches at the bar, have, even in this more careful age, been saved, unless he has preserved them himself, which is not in the least probable, as those who perform the most have the least time to record their doings. The few which have been saved, have in general, had some bearings upon State rights, or were connected with some popular excitement. Three or four of them we have mentioned, and to which may be added, the speeches in the case of Gibbons against Ogden, and Ogden against Saunders. These have been spread over the country by the public journals, and their points and bearing are so well known that it is not necessary to give an analysis of them.

In February, 1831, while Mr. Webster was at Washington, several distinguished gentlemen of the city of New York sent him an invitation to partake of a public dinner in the city, at such time as he should appoint. This invitation and acceptance is taken from the journals of the day, and are unquestionably authentic.

New York, Feb. 23, 1831.

To the Hon. Daniel Webster,

Sir—Your distinguished public services on a great and trying occasion at the last session of Congress in vindicating the principles of the Constitution, and the powers of the general Government, have given you a just title to the lasting gratitude of your country.

A number of the citizens of New York, deeply impressed with the value and success of these efforts, have expressed an earnest desire to unite in offering you some public mark of their respect, and we have been deputed to ask the honor of your company at a public dinner in this city, at such time as your convenience will permit, and as you may be pleased to designate.

We have the honor to be

Your obedient servants,

Richard Varick, B. Robinson, John Hone, John S. Crary, Wm. Johnson, Henry I. Wyckoff, David Hosack, George Newbold, I. Bronson, Charles Wilkes, Lynde Catlin, James G. King, George Griswold, Nathaniel Richards, Stephen Whitney, John A. Stevens, Jonathan Goodhue, Frederick Sheldon, Nicholas Fish, David B. Ogden, H. Maxwell, C. H. Russell, Cyrus Perkins, James Kent, Robert Troup, William W. Woolsey, Peter A. Jay, Benjamin L. Swan, J. Boorman, Frederick A. Tracy, H. Beekman, John B. Lawrence, John Haggerty, Valentine Mott, Isaac S. Hone, Edward M. Greenway, David Lydig, E. M. Berryman, Richard M. Lawrence, John L. Lawrence, Cornelius W. Lawrence, Morgan Lewis, William [illegible]son, R. Sedgwick, Thomas G. Cary, Seth P. Staples.

Washington, March 1, 1831.

Gentlemen,

I have received your letter of the 23d February, inviting me to a public dinner as a mark of your respect, for efforts made by me on a recent occasion, which you are kind enough to think were of some value to the country.

It is impossible for me not to be highly gratified, by perceiving that a favorable estimate has been placed by you on any public service of mine.

I accept, gentlemen, with great pleasure your proffered civility; and since you leave the time to be fixed by me, would observe, that I shall probably be in New York on the 24th instant. If agreeable to you that may be the day.

I have the honor to be, with true regard,
Your obedient servant,
DANIEL WEBSTER.

To the Hon. James Kent, Morgan Lewis, Richard Varick, Peter A. Jay, &c. &c.

The dinner was given on the 24th of March. This was done without distinction of parties. The lovers of talent and patriotism were united in this tribute of respect to one who had so ably expounded the principles of the Constitution of the United States, and one who always soared above party when any thing national was to be considered.

Chancellor Kent presided at this dinner, assisted by Peter A. Jay, John Hone, and Edward M. Greenway, as Vice Presidents. It was highly gratifying to every reasonable man, to every good patriot, to see so many gentlemen of different politics, in party times, sitting at the same board in harmony and good fellowship. The toasts and speeches were free from any tinge of party feeling, and all liberal, patriotic, and unexceptionable in every respect. The illustrious President, known to the world as a judge, a chancellor and a scholar, in equity and jurisprudence, in the first ranks of those who have benefited the world by their decisions and commentaries, made an elegant speech complimentary to the guest, as introductory to a toast.

'The President, Chancellor Kent, called the attention of the gentlemen to a toast, to which he was sure their judgments and their hearts would respond.

'New England had been long fruitful in great men, the necessary consequence of the admirable discipline of her institutions; and we were this day honored with the presence of one of those cherished objects of her attachment and pride, who has an undoubted and peculiar title to our regard. It is a plain truth, that he who defends the Constitution of his country by his wisdom in council, is entitled to share her gratitude with those who protect it by valor in the field. Peace has its victories as well as war. We all recollect a late memorable occasion, when the exalted talents and enlightened patriotism of the gentlemen to whom he had alluded, were exerted in the support of our national Union, and the sound interpretation of its Charter. If there be any one political precept pre-eminent above all others, and acknowledged by all, it is that which dictates the absolute necessity of a union of the States under one government, and that government clothed with those attributes and powers with which the existing Constitution has invested it. We were indebted, under Providence, to the operation and influence of the powers of that Constitution, for our national honor abroad and for unexampled prosperity at home. Its future stability depended upon the firm support and due exercise of its legitimate powers in all their branches. A tendency to disunion—to anarchy among the members, rather than to tyranny in the head—had been heretofore the melancholy fate of all the federal governments of ancient and modern Europe. Our Union and national Constitution were formed as we have hitherto been led to believe under better auspices and with improved wisdom. But there was a deadly principle of disease inherent in the system. The assumption, by any member of the Union, of the right to question and resist, or annul, as its own judgment should dictate, either the laws of Congress, or the treaties, or the decisions of the federal courts, or the mandates of the executive power, duly made and promulgated as the Constitution prescribes, was a most dangerous assumption of power, leading to collision and the destruction of the system. And if, contrary to all our expectations, we should hereafter fail in the grand experiment of a confederate government, extending over some of the fairest portions of this continent, and destined to act, at the same time, with efficiency and harmony, we should most grievously disappoint the hopes of mankind, and blast for ever the fruits of the revolution.

'But, happily for us, the refutation of such dangerous pretensions, on the occasion referred to, was signal and complete. The false images and delusive theories which had perplexed the thoughts and disturbed the judgments of men, were then dissipated in like manner as spectres disappear at the rising of the sun. The inestimable value of the Union, and the true principles of the Constitution were explained by clear and accurate reasonings, and enforced by pathetic and eloquent illustrations. The result

was the more auspicious, as the heretical doctrines, which were then fairly reasoned down, had been advanced by a very respectable portion of the Union, and urged on the floor of the Senate by the polished mind, manly zeal, and honored name of a distinguished member of the South.

'The consequences of that discussion have been extremely beneficial. It turned the attention of the public to the great doctrines of national rights and national union.—Constitutional law ceased to remain wrapped up in the breasts, and taught only by the responses of the living oracles of the law. Socrates was said to have drawn down philosophy from the skies, and scattered it among the schools. It may with equal truth be said that Constitutional law, by means of those Senatorial discussions, and the master genius that guided them, was rescued from the archives of our tribunals and the libraries of lawyers, and placed under the eye and submitted to the judgment of the American people. *'Their verdict is with us, and from it there lies no appeal.'*

This was followed in return by a speech from Mr. Webster, whose animation was equal to the occasion. A high spirit breathed in every word, and a reverence bordering upon enthusiasm was extended to those departed sages, who had made sacrifices to build up our invaluable institutions. Standing, as it were, by the grave of Hamilton, the Orator drew a character of HIM, whose ashes slept beneath the sod. No marble monument can eternize the dead, like the lips of truth and the tongue of eloquence. It was the precise moment for Hamilton's eulogy to be pronounced; for many of those listening to the voice of the Orator knew well the subject of his praise; knew him personally; remembered him, and what he did; and could bear testimony that all that the eulogist said was true; and that more, much more, might have been said on the same subject; and yet time enough had elapsed to extract the sting from envy, and to dissipate all the ranklings of political strife. Other worthies were not forgotten on this occasion;—Jay and Livingston,—names to be called up when the glories of our revolution are to be commemorated, or our history written,—were brought out in relief; others were not forgotten, although not mentioned for want of time. A tenth part of them could not be named in such a passing moment. A feast of this sort is an hour anticipated from that golden age which is to come; that age of exalted virtue and pure intelligence,—that age when justice shall lift aloft her scale, and white-robed innocence descend from Heaven;—when different natures shall live in peace, and harmony, and love. Whoever has spent his days in party-times, and has plunged into party feuds,—who has brought himself to praise those he disliked, and has shunned those he truly respected;—and all have done this, more or less, who have been partizans,—can tell how pleasant is such an hour of harmony and good feeling.

'I owe the honor of this occasion, gentlemen, to your patriotic and affectionate attachment to the Constitution of the country. For an effort, well intended, however otherwise of unpretending character, made in the discharge of public duty, and designed to maintain the Constitution, and vindicate its just powers, you have been pleased to tender me this token of your respect. It would be idle affectation to deny that it gives me singular gratification. Every public man must naturally desire the approbation of his fellow-citizens; and though it may be supposed that I should be anxious, in the first place, not to disappoint the expectations of those whose immediate representative I am, it is not possible that I should not feel, nevertheless, the high value of such a mark of esteem as is here offered. But, gentlemen, I am conscious that the main purpose of this occasion is higher than mere manifestation of personal regard. It is to evince your attachment to the Constitution, and your just alarm, at whatever threatens to weaken its proper authority, or endanger its existence.

'Gentlemen, this could be hardly otherwise. It would be strange, indeed, if the members of this vast commercial community should not be first and foremost to rally for the Constitution, whenever opinions and doctrines are advanced hostile to its principles. Where, sooner than here, where louder than here, may we expect a patriotic voice to be raised, when the union of the States is threatened? In this great commercial emporium, at this central point of the united commerce of the United States, of all places, we may expect the warmest, the most determined, and universal feeling of attachment to the national Constitution. Gentlemen, no one can estimate more highly than I do, the natural advantages of your city. No one entertains a higher opinion than myself, also, of that spirit of wise and liberal policy, which has actuated the Government of the State in the accomplishment of high objects, important to the growth and prosperity both of the State and the city. But all these local advantages, and all this enlightened State policy could never have made your city what it now is, without the aid and protection of a General Government, extending over all the States, and establishing for all, a common and uniform system of commercial regulation. Without national character, without public credit, without systematic finance, without uniformity of commercial laws, all other advantages possessed by this city,

would have decayed and perished, like unripe fruit. A General Government, was, for years before it was instituted, the great object of desire to the inhabitants of this city. New York was conscious of her local advantages for commerce,—she saw her destiny, and was eager to embrace it; but nothing else than a General Government could make free her path before her, and set her forward on her career. She early saw all this, and to the accomplishment of this great and indispensable object, she bent up every faculty, and exerted every effort. She was not mistaken. She formed no false judgment. At the moment of the adoption of the Constitution, New York was the capital of one State, and contained thirty-two or thirty-three thousand people. It now contains more than two hundred thousand people, and is justly regarded as the commercial capital, not only of all the United States, but of the whole continent also, from the Pole to the South Sea. Every page of her history, for the last forty years, bears high and irresistible testimony to the benefits and blessings of the General Government. Her astonishing growth is referred to, and quoted, all the world over, as one of the most striking proofs of the effects of our Federal Union. To suppose her now to be easy and indifferent, when notions are advanced tending to its dissolution, would be to suppose her equally forgetful of the past, and blind to the present, alike ignorant of her own history, and her own interest, metamorphosed from all that she has been, into a being tired of its prosperity, sick of its own growth and greatness, and infatuated for its own destruction. Every blow aimed at the union of the States strikes on the tenderest nerve of her interest and her happiness. To bring the Union into debate, is to bring her own future prosperity into debate also.—To speak of arresting the laws of the Union, of interposing State power in matters of commerce and revenue, of weakening the full and just authority of the General Government, would be, in regard to this city, but another mode of speaking of commercial ruin, of abandoned wharves, of vacated houses, of diminished and dispersing population, of bankrupt merchants, of mechanics without employment, and laborers without bread. The growth of this city, and the Constitution of the United States, are coevals and contemporaries. They began together, they have flourished together, and if rashness and folly destroy one, the other will follow it to the tomb.

'Gentlemen, it is true, indeed, that the growth of this city is extraordinary and almost unexampled. It is now, I believe, sixteen or seventeen years, since I first saw it. Within that comparatively short period, it has added to its number three times the whole amount of its population when the Constitution was adopted. Of all things having power to check this prosperity, of all things potent to blight and blast it, of all things capable of compelling this city to recede as fast as she has advanced, a disturbed government, an enfeebled public authority, a broken or a weakened union of the States, would be sovereign. This would be cause efficient enough. Every thing else, in the common fortune of communities, she may hope to resist, or to prevent.—*That* would be fatal as the arrow of death.

'Gentlemen, you have personal recollections and associations, connected with the establishment and adoption of the Constitution, which are necessarily called up on an occasion like this. It is impossible to forget the prominent agency which eminent citizens of your own fulfilled, in regard to that great measure. They are now recorded among the illustrious dead: but they have left names never to be forgotten and never to be remembered without respect and veneration. Least of all can they be forgotten by you, when assembled here for the purpose of signifying your attachment to the Constitution, and your sense of its inestimable importance to the happiness of the people.

'I should do violence to my own feelings, gentlemen, I think I should offend yours, if I omitted respectful mention of great names, yet fresh in your recollections. How can I stand here, to speak of the Constitution of the United States, of the wisdom of its provisions, of the difficulties attending its adoption, of the evils from which it rescued the country, and of the prosperity and power to which it had raised it, and yet pay no tribute to those who were highly instrumental in accomplishing the work?—While we are here, to rejoice that it yet stands firm and strong; while we congratulate one another that we live under its benign influence, and cherish hopes of its long duration, we cannot forget who they were that, in the day of our national infancy, in the times of despondency and despair, mainly assisted to work out our deliverance. I should feel that I disregarded the strong recollections which the occasion presses upon us, that I was not true to gratitude, not true to patriotism, not true to the living or the dead, not true to your feelings or my own, if I should forbear to make mention of ALEXANDER HAMILTON.

'Coming from the military service of his country, yet a youth, but with knowledge and maturity, even in civil affairs, far beyond his years, he made this city the place of his adoption; and he gave the whole powers of his mind to the contemplation of the weak and distracted condition of the country. Daily increasing in acquaintance

and confidence with the people of this city, he saw, what they also saw, the absolute necessity of some closer bond of union for the States. This was the great object of desire. He appears never to have lost sight of it, but was found in the lead, whenever any thing was to be attempted for its accomplishment. One experiment after another, as is well known, was tried, and all failed. The States were urgently called on to confer such further powers on the old Congress as would enable it to redeem the public faith, or to adopt themselves some general and common principle of commercial regulation. But the States had not agreed, and were not likely to agree. In this posture of affairs, so full of public difficulty, and public distress, Commissioners from five or six of the States met, on the request of Virginia, at Annapolis, in September, 1786. The precise object of their appointment was, to take into consideration the trade of the United States; to examine the relative situations and trade of the several States; and to consider how far a uniform system of commercial regulations was necessary to their common interest and permanent harmony. Mr. Hamilton was one of these Commissioners; and I have understood, though I cannot assert the fact, that their Report was drawn by him. His associate from this state was the venerable Judge Benson, who has lived long, and still lives, to see the happy results of the counsels which originated in this meeting. Of its members, he and Mr. Madison are, I believe, now the only survivors. These Commissioners recommended what took place the next year, a general Convention of all the States, to take into serious deliberation the condition of the country, and devise such provisions as should render the Constitution of the Federal Government adequate to the exigencies of the Union. I need not remind you, that of this Convention, Mr. Hamilton was an active and efficient member. The Constitution was framed, and submitted to the country. And then another great work was to be undertaken. The Constitution would naturally find, and did find enemies and opposers. Objections to it were numerous, and powerful, and spirited. They were to be answered; and they were, effectually answered. The writers of the numbers of the Federalist, Mr. Hamilton, Mr. Madison, and Mr. Jay, so greatly distinguished themselves in their discussions of the Constitution, that those numbers are generally received as important commentaries on the text and accurate expositions, in general, of its objects and purposes. Those papers were all written and published in this city. Mr. Hamilton was elected one of the distinguished delegation from this city, into the State Convention at Poughkeepsie, called to ratify the new Constitution. Its debates are published. Mr. Hamilton appears to have exerted, on this occasion, to the utmost, every power and faculty of his mind.

'The whole question was likely to depend on the decision of New York. He felt the full importance of the crisis; and the reports of his speeches, imperfect as they probably are, are yet lasting monuments to his genius and patriotism. He saw at last his hopes fulfilled; he saw the Constitution adopted, and the Government under it established and organized. The discerning eye of Washington immediately called him to that post, infinitely the most important in the administration of the new system. He was made Secretary of the Treasury; and how he fulfilled the duties of such a place, at such a time, the whole country perceived with delight, and the whole world saw, with admiration. He smote the rock of the national resources, and abundant streams of revenue gushed forth. He touched the dead corpse of the Public Credit, and it sprung upon its feet.—The fabled birth of Minerva from the brain of Jove, was hardly more sudden, or more perfect than the financial system of the United States, burst forth from the conceptions of Alexander Hamilton.

'Your recollections, gentlemen, your respect, and your affections, all conspire to bring before you, at such a time as this, another great man, now, too, numbered with the dead. I mean the pure, the disinterested, the patriotic John Jay. His character is a brilliant jewel in the sacred treasures of national reputation. Leaving his profession at an early period, yet not before he had singularly distinguished himself in it, from the commencement of the Revolution, his whole life, until his final retirement, was a life of public service. A member of the first Congress, he was the author of that political paper which is generally acknowledged to stand first among the incomparable productions of that body: papers, which called forth that decisive strain of commendation from the great Lord Chatham, in which he pronounced them not inferior to the finest productions of the master statesmen of the world. He had been abroad, and he had also been long intrusted with the difficult duties of our foreign correspondence at home. He had seen and felt, in the fullest measure, and to the greatest possible extent, the difficulty of conducting our foreign affairs, honorably and usefully, without a stronger and more perfect Union at home. Though not a member of the Convention which framed the Constitution, he was yet present while it was in session, and looked anxiously for its result. By the choice of this city, he had a seat in the State Convention, and took an active and zealous part for the adoption

of the Constitution. He was selected by Washington to be the first Chief Justice of the United States; and surely the high and most responsible duties of that station, could not have been trusted to abler or safer hands. It is the duty, one of equal importance and delicacy, of that tribunal, to decide constitutional questions, arising occasionally on State laws. The general learning and ability, and especially the prudence, the mildness, and the firmness of his character, eminently fitted Mr. Jay to be the head of such court. When the spotless ermine of the judicial robe fell on John Jay, it touched nothing not as spotless as itself. These eminent men, gentlemen, the contemporaries of some of you, known to most, and revered by all, were so conspicuous in the framing and adopting of the Constitution, and called so early to important stations under it, that a tribute, better, indeed, than I have given, or am able to give, seemed due to them from us. There was yet another, of whom mention is to be made. In the revolutionary history of the country the name of Chancellor Livingston became early prominent. He was a member of that Congress which declared Independence; and a member, too, of the committee which drew and reported the immortal Declaration. At the period of the adoption of the Constitution, he was its firm friend and able advocate. He was a member of the State Convention, being one of that list of distinguished and gifted men, who represented this city in that body; and threw the whole weight of his talents and influence into the doubtful scale of the Constitution.

'Gentlemen, as connected with the Constitution, you have also local recollections which must bind it still closer to your attachment and affection. It commenced its being and its blessings here. It was in this city, in the midst of friends, anxious, hopeful, and devoted, that the new Government started in its course. To us, gentlemen, who are younger, it has come down by tradition, but some around me are old enough to have witnessed, and did witness, the interesting scene of the first Inauguration. They remember what voices of gratified patriotism, what shouts of enthusiastic hope, what acclamations, rent the air—how many eyes were suffused with tears of joy—how cordially each man pressed the hand of him who was next to him, when, standing in the open air, in the centre of the city, in the view of assembled thousands, the first President was heard solemnly to pronounce the words of his official oath, repeating them from the lips of Chancellor Livingston. You then thought, gentlemen, that the great work of the Revolution was accomplished. You then felt that you had a Government—that the United States were then, indeed, united. Every benignant star seemed to shed its selectest influence on that auspicious hour. Here were heroes of the Revolution; here were sages of the Convention; here were minds, disciplined and schooled in all the various fortunes of the country, acting now in various relations, but all co-operating to the same great end, the successful administration of the new and untried Constitution. And he—how shall I speak of him?—he was at the head, who was already first in war—who was already first in the hearts of his countrymen; and who was now shown also, by the unanimous suffrage of the country, to be first in peace.

'Gentlemen, how gloriously have the hopes, then indulged, been fulfilled! Whose expectation was then so sanguine—I may almost ask whose imagination then so extravagant, as to run forward and contemplate as probable, the one half of what has been accomplished in forty years? Who among you can go back to 1789, and see what this city, and this country too, then were—and then beholding what they now are, can be ready to consent that the Constitution of the United States shall now be weakened, *nullified*, or dishonored?

'Gentlemen, before I leave these pleasant recollections, I feel it an irresistible impulse of duty to pay a tribute of respect to another distinguished person, not, indeed, a fellow citizen of your own, but associated with those I have already mentioned, in important labors, and an early and indefatigable friend and advocate in a great cause of the Constitution. Gentlemen, I refer to Mr. Madison. I am aware, gentlemen, that a tribute of regard from me to him is of little importance; but if it shall receive your approbation and sanction, it will become of value. Mr. Madison, thanks to a kind Providence, is yet among the living, and there is certainly no other individual living, to whom the country is so much indebted for the blessings of the Constitution. He was one of the Commissioners at Annapolis, in 1786, at the meeting, of which I have already spoken; a meeting, which to the great credit of Virginia, had its origin in a proceeding of that State. He was a member of the Convention of 1789, and of that of Virginia the following year. He was thus intimately acquainted with the whole progress of the formation of the Constitution, from its very first step to its final adoption. If ever man had the means of understanding a written instrument, Mr. Madison has the means of understanding the Constitution. If it be possible to know what was designed by it, he can tell us. It was in this city, that in conjunction with Mr. Hamilton and Mr. Jay, he wrote the numbers of the Federalist; and it was in this

city that he commenced his brilliant career, under the new Constitution, having been elected into the House of Representatives of the first Congress. The recorded votes and debates of those times, show his active and efficient agency in every important measure of that Congress. The necessary organization of the Government, the arrangement of the Departments, and especially the paramount subject of revenue engaged his attention, and shared his labors. The legislative history of the first two or three years of the Government is full of instruction. It presents, in striking light, the evils intended to be remedied by the Constitution, and the provisions which were deemed essential to the remedy of those evils. It exhibits the country, in the moment of its change from a weak and ill-defined confederacy of States, into a general, efficient, but still restrained and limited government. It shows the first working of our peculiar system, moved, as it then was, by master hands.

'Gentlemen, for one, I confess, I like to dwell on this part of our history. It is good for us to be here. It is good for us to study the situation of the country at this period, to survey its difficulty, to look at the conduct of its public men, to see how they struggle with obstacles, real and formidable, and how gloriously they brought the country out of its state of depression and distress. Truly, gentlemen, these founders and fathers of the Constitution were great men, and thoroughly furnished for every good work. All that reading and learning could do, all that talent and intelligence could do, and what perhaps is still more—all that long experience, in difficult and troubled times, and a deep and intimate practical knowledge of the condition of the country could do, conspired to fit them for the great business of forming a general, but limited government, embracing common objects, extending over all the States, and yet touching the power of the States no farther than those common objects require. I confess, I love to linger around these original fountains, and to drink deep of their waters. I love to imbibe, in as full measure as I may, the spirit of those who laid the foundations of the government, and so wisely and skilfully balanced and adjusted its bearings and proportions.

'Having been afterwards, for eight years, Secretary of State, and as long President, Mr. Madison has had an experience in the affairs of the Constitution, certainly second to no man. More than any other man living, and perhaps more than any other who has lived, his whole public life has been incorporated, as it were, into the Constitution; in the original conception and project of attempting to form it, in its actual framing, in explaining and recommending it, by speaking and writing, in assisting at the first organization of the Government under it, and in a long administration of its executive powers, in those various ways he has lived near the Constitution, and with the power of imbibing its true spirit, and inhaling its very breath, from its first pulsation of life. Again, therefore, I ask, if he cannot tell us what the Constitution is, and what it means, who can? He had retired with the respect and regard of the community, and might naturally be supposed not willing to interfere again in matters of political concern. He has, nevertheless, not withholden his opinions on the vital question discussed on that occasion, which has caused this meeting. He has stated with an accuracy almost peculiar to himself, and so stated, as, in my opinion, to place almost beyond further controversy, the true doctrines of the Constitution. He has stated, not notions too loose and irregular to be called even a theory,—not ideas struck out by the feeling of present inconvenience or supposed mal-administration,—not suggestions of expediency, or evasions of fair and straight-forward construction,—but elementary principles, clear and sound distinctions, and indispensable truths. I am sure, gentlemen, that I speak your sentiments, as well as my own, when I say, that for making public so clearly and distinctly as he has done, his own opinions on these vital questions of Constitutional law, Mr. Madison has founded a new and strong claim on the gratitude of a grateful country. You will think with me, that at his advanced age, and in the enjoyment of general respect and approbation, for a long career of public services, it was an act of distinguished patriotism, when he saw notions promulgated and maintained, which he deemed unsound and dangerous, not to hesitate to come forward, and to place the weight of his own opinion in what he deemed the right scale, come what might come. I am sure, gentlemen, it cannot be doubted,—the manifestation is clear,—that the country feels gratefully the force of this new obligation.

'Gentlemen, what I have said of the benefits of the Constitution to your city, might be said, with little change, in every other part of the country. Its benefits are not exclusive. What has it left undone, which any Government could do, for the whole country? In what condition has it placed us? Where do we now stand? Are we elevated or degraded by its operation? What is our condition under its influence, at the very moment when some talk of arresting its power and breaking its unity? Do we not feel ourselves on an eminence? Do we not challenge the respect of the whole world? What has placed us thus high? What has given us this just pride? What

else is it, but the unrestrained and free operation of that same Federal Constitution, which it has been proposed now to hamper, and manacle, and nullify? Who is there among us, that should find himself on any spot of the earth, where human beings exist, and where the existence of other nations is known, that would not be proud to say, I am an American? I am a countryman of Washington? I am a citizen of that Republic, which, although it has suddenly sprung up, yet there are none on the globe who have ears to hear, and have not heard of it,—who have eyes to see, and have not read of it,—who know any thing, and yet do not know of its existence and its glory?—And, gentlemen, let me now reverse the picture. Let me ask, who there is among us, if he were to be found to-morrow in one of the civilized countries of Europe, and were there to learn that this goodly form of Government had been overthrown,—that the United States were no longer united,—that a death-blow had been struck upon their bond of union,—that they themselves had destroyed their chief good and their chief honor,—who is there, whose heart would not sink within him? Who is there who would not cover his face for very shame?

'At this very moment, gentlemen, our country is a general refuge for the distressed and the persecuted of other nations. Whoever is in affliction from political occurrences in his own country, looks here for shelter. Whether he be republican, flying from the oppression of tyrones,—or whether he be monarch or monarchist, flying from thrones that crumble and fall under or around him,—he feels equal assurance, that if he get foot-hold on our soil, his person is safe, and his rights will be respected.

'And who will venture to say, that in any Government, now existing in the world, there is greater security for persons or property than in the United States? We have tried these popular institutions in times of great excitement and commotion; they have stood substantially firm and steady, while the fountains of the great political deep have been elsewhere broken up; while thrones, resting on ages of proscription, have tottered and fallen; and while, in other countries, the earthquake of unrestrained popular commotion has swallowed up all law, and all liberty, and all right together, our Government has been tried in peace, and it has been tried in war, and has proved itself fit for both. It has been assailed from without, and successfully resisted the shock; it has been disturbed within, and has effectually quieted the disturbance. It can stand trial,—it can stand assault,—it can stand adversity,—it can stand every thing but the marring of its own beauty, and the weakening of its own strength.- It can stand every thing, but the effects of our own rashness, and our own folly. It can stand every thing, but disorganization, disunion, and nullification.

'It is a striking fact, and as true as it is striking, that at this very moment, among all the principal civilized States of the world, that Government is most secure against the danger of popular commotion, which is itself entirely popular. It seems, indeed, that the submission of every thing to the public will, under Constitutional restraints, imposed by the people themselves, furnishes, itself, security that that will desire nothing wrong.

'Certain it is, that popular Constitutional liberty, as we enjoy it, appears, in the present state of the world, as sure and stable a basis for Government to rest upon, as any Government of enlightened States can find, or does find. Certain it is, that in these times of so much popular knowledge, of so much popular activity, those Governments which do not admit the people to partake in their administration, but keep the people under and beneath, sit on materials for an explosion, which may take place at any moment, and blow them into a thousand atoms.

'Gentlemen, let any man who would degrade and enfeeble the national Constitution,—let any man who would nullify its laws, stand forth and tell us what he would wish. What does he propose? Whatever he may be, and whatever substitute he may hold forth, I am sure the people of this country will decline his kind interference, and hold on by the Constitution which they possess. Any one who would willingly destroy it, I rejoice to know would be looked upon with abhorrence. It is deeply entrenched in the regards of the people. Doubtless, it may be undermined by artful and long continued hostility; it may be imperceptibly weakened by secret attack; it may be insidiously shorn of its powers by slow degrees; the public vigilance may be lulled, and when it awakes, it may find the Constitution frittered away. In these modes, or some of them, doubtless, it is possible that the union of the States may be dissolved.

'But if the general attention of the people be kept alive,—if they see the intended mischief before it is effected, they will effectually prevent it by their own sovereign power. They will interpose themselves between the meditated blow, and the object of their regard and attachment. Gentlemen, next to the controlling authority of the people themselves, the preservation of the Government is mainly committed to those who administer it. If conducted in wisdom, it cannot but stand strong. Its genuine original spirit is a patriotic, liberal, and generous spirit; a spirit of conciliation, of moderation, of candor, and charity; a spirit of friendship, and not a spirit of hostility, with

the States; a spirit, careful not to exceed, and equally careful not to relinquish its just powers. While no interest can or ought to feel itself shut out from the benefits of the Constitution, none should consider those benefits as exclusively its own. The interests of all must be connected, and reconciled, and provided for, as far as possible, that all may perceive the benefits of a united Government.

'Among other things, we are to remember that, since the adoption of the Constitution, new States have arisen, possessing already an immense population spreading and thickening over vast regions, which were a wilderness when the Constitution was adopted. Those states are not like New-York, directly connected with maritime commerce. They are entirely agricultural, and need markets for consumption, and access to those markets. It is the duty of the Government to bring the interests of these new States into the Union, and incorporate them closely in the family compact. Gentlemen, it is not impracticable to reconcile these various interests, and so to administer the Government as to make it useful to all. It was never easier to administer the Government than it is now. We are beset with none, or with few, of its original difficulties; and it is a time of great general prosperity and happiness. Shall we admit ourselves incompetent to carry on the Government, so as to be satisfactory to the whole country? Shall we admit that there has so little descended to us of the wisdom and prudence of our fathers? If the government could be administered in Washington's time, when it was yet new, when the country was heavily in debt, when foreign relations were threatening, and when Indian wars pressed on the frontiers, can it not be administered now? Let us not acknowledge ourselves so unequal to our duties.

'Gentlemen, on the occasion referred to, it became necessary to consider the judicial power, and its proper functions under the Constitution. In every free and balanced Government, this is a most essential and important power. Indeed, I think it is a remark of Mr. Hume, that the administrati n of justice seems to be the leading object of institutions of Government; that Legislatures assemble, that armies are imbodied, that both war and peace are made, with a sort of ultimate reference to the proper administration of laws, and the judicial protection of private rights. The judicial power comes home to every man. If the legislature passes incorrect or unjust general laws, its members bear the evil as well as others. But judicature acts on individuals. It touches every private right, every private interest, and almost every private feeling. What we possess is hardly fit to be called our own, unless we feel secure in its possession; and this security, this feeling of perfect safety, cannot exist under a wicked, or even under a weak and ignorant administration of the laws. There is no happiness, there is no liberty, there is no enjoyment of life, unless a man can say when he rises in the morning, I shall be subject to the decision of no unjust judge to-day.

'But, gentlemen, the Judicial Department under the Constitution of the United States, possesses still higher duties. It is true that it may be called on, and is occasionally called on to decide questions, which are, in one sense, of a political nature. The General and State Governments, both established by the people, are established for different purposes, and with different powers. Between those powers questions may arise, and who shall decide them? Some provision for this end is absolutely necessary,—What shall it be? This was the question before the Convention; and various schemes were suggested. It was foreseen, that the States might inadvertently pass laws inconsistent with the Constitution of the United States, or with acts of Congress. At least, laws might be passed, which would be charged with such inconsistency. How should these questions be disposed of? Where shall the power of judging, in cases of alleged interference, be lodged? One suggestion, in the Convention, was to make it an executive power, and to lodge it in the hands of the President, by requiring all State laws to be submitted to him, that he might negative such as he thought appeared repugnant to the general Constitution. This idea, perhaps, may have been borrowed from the power exercised by the crown, over the laws of the Colonies. It would evidently have been not only an inconvenient and troublesome proceeding, but dangerous, also, to the powers of the States. It was not pressed. It was thought wiser and safer, on the whole, to require State legislatures and State judges to take an oath to support the Constitution of the United States, and then leave the States at liberty to pass whatever laws they pleased, and if interference, in points of fact, should arise, to refer the question to judicial decision. To this end, the judicial power, under the Constitution of the United States, was made co-extensive with the legislative power. It was extended to all cases arising under the Constitution and the laws of Congress. The Judiciary became thus possessed of the authority of deciding, in the last resort, in all cases of alleged interference, between State Laws and the Constitution, and laws of Congress.

'Gentlemen,—This is the actual Constitution,—This the law of the land. There may be those, who think it unnecessary, or who would prefer a different mode of de-

ciding such questions. But this is the established mode, and till it be altered, the Courts can no more decline their duty, on these occasions, than on other occasions. But, gentlemen, can any reasonable man doubt the expediency of this provision, or suggest a better? Is it not absolutely essential to the peace of the country, that this power should exist somewhere? Where can it exist better than where it now does exist? The national Judiciary is the common tribunal of the whole country. It is organized by the common authority, and its places filled by the common agent. This is a plain and practical provision. It was framed by no bunglers, nor by any wild theorists. And who can say, that it has failed? Who can find substantial fault with its operation or its results? The great question is, whether we shall provide for the peaceable decision of cases of collision. Shall they be decided by law, or by force? Shall the decisions be decisions of peace, or decisions of war?

'On the occasion referred to, the proposition contended for, was, that every State, under certain supposed exigencies, and in certain supposed cases, might decide for itself, and act for itself, and oppose its own force to the execution of the laws. By what argument do you imagine, gentlemen, it was, that such a proposition was maintained? I should call it metaphysical, and subtle; but these terms would imply at least ingenuity, and some degree of plausibility; whereas the argument appears to me plain assumption, mere perverse construction of plain language, in the body of the Constitution itself. As I understand it, when put forth in its revised and most authentic shape, it is this; that the Constitution provides, that any amendments may be made to it, which shall be agreed to by three-fourths of the States; there is, therefore, to be nothing in the Constitution to which three-fourths of the States have not agreed. All this is true; but then comes this inference, viz.: that when one State denies the constitutionality of any law of Congress, she may arrest its execution as to herself, and keep it arrested, till the States can all be consulted, by their conventions, and three-fourths of them shall have decided that the law is constitutional. Indeed the interference is still stranger than this; for State Conventions have no authority to construe the Constitution, though they have authority to amend it; therefore the argument must prove, if it prove any thing, that when any one State denies that any particular power is included in the Constitution, it is to be considered as not included, and cannot be found there, till three-fourths of the States agree to insert it. In short, the result of the whole is, that though it requires three-fourths of the States to insert any thing into the Constitution, yet any one State can strike any thing out of it. For the power to strike out, and the power of deciding, without appeal, upon the construction of what is already in, are substantially and practically the same.

'And, gentlemen, what a spectacle should we have exhibited, under the actual operation of notions like these? At the very moment when our Government was quoted, praised, and commended all over the world; when the friends of Republican Liberty, every where, were gazing at it with delight, and were in perfect admiration at the harmony of its movements, one State steps forth, and by the power of nullification, breaks up the whole system, and scatters the bright chain of the Union into as many sundered links as there are separate States!

'Seeing the true grounds of the Constitution thus attacked, I raised my voice in its favor. I must confess, with no preparation, or previous intention. I can hardly say that I embarked in the contest from a sense of duty. It was an instantaneous impulse of inclination, not acting against duty, I trust, but hardly waiting for its suggestions. I felt it to be a contest for the integrity of the Constitution; and I was ready to enter into it, not thinking, or caring, personally, how I might come out.

'Gentlemen,—I have true pleasure in saying, that I trust the crisis has, in some measure, passed by. The doctrines of nullification have received a severe and stern rebuke from public opinion. The general reprobation of the country has been cast upon them. Recent expressions of the most numerous branch of the national legislature are decisive and imposing. Every where, the general tone of public feeling is for the Constitution. While much will be yielded, every thing almost but the integrity of the Constitution, and the essential interests of the country, to the cause of mutual harmony, and mutual conciliation, no ground can be granted, not an inch, to menace and bluster. Indeed, menace, and bluster, and the putting forth of daring unconstitutional doctrines, are, at this very moment, the chief obstacles to mutual harmony, and satisfactory accommodation. Men cannot well reason, and confer, and take counsel together, about the discreet exercise of a power, with those who deny that any such power rightfully exists, and who threaten to blow up the whole Constitution, if they cannot otherwise get rid of its operation. It is matter of sincere gratification, gentlemen, that the voice of this great State has been so clear and strong, and her vote, all but unanimous, on the most interesting of these occasions, in the House of Representatives. Certainly such respect to the Union becomes New York. It is consistent with her interests and her character. That singularly prosper-

ous State,—which now is, and is likely to continue to be, the greatest link in the chain of the Union,—will ever be, it is to be hoped, the strongest link also. The great States which lie in her neighborhood agreed with her fully in this matter. Pennsylvania, I believe, was loyal to the Union, to a man; and Ohio raises her voice, like that of a lion, against whatsoever threatens disunion and dismemberment. This harmony of sentiment is truly gratifying. It is not to be gainsaid that the union of opinion, in this great central mass of our population, on this momentous point of the Constitution, augurs well for our future prosperity and security.

'I have said, gentlemen, what I verily believe to be true, that there is no danger to the Union from open and avowed attacks on its essential principles. Nothing is to be feared from those who will march up boldly to their own propositions, and tell us that they mean to annihilate powers exercised by Congress. But, certainly, there are dangers to the Constitution, and we ought not to shut our eyes to them. We know the importance of a firm and intelligent Judiciary; but how shall we secure the continuance of a firm and intelligent Judiciary? Gentlemen, the Judiciary is in the appointment of the executive power. It cannot continue or renew itself. Its vacancies are to be filled in the ordinary modes of executive appointment. If the time shall ever come, which Heaven avert! when men shall be placed in the supreme tribunal of the country, who entertain opinions hostile to the just powers of the Constitution, we shall then be visited by an evil defying all remedy. Our case will be "past surgery." From that moment the Constitution is at an end. If they who are appointed to defend the castle shall betray it, wo betide those within! If I live to see that day come, I shall despair of the country. I shall be prepared to give it back to all its former afflictions, in the days of the confederation. I know no security, gentlemen, against the possibility of this evil, but an awakened public vigilance. I know no safety, but in that state of public opinion which shall lead it to rebuke and put down every attempt, either to gratify party, by Judicial appointments, or to dilute the Constitution, by creating a court which shall construe away its provisions. If members of Congress betray their trust, the people will find it out before they are ruined. If the President should, at any time, violate his duty, his term of office is short, and popular elections may supply a seasonable remedy. But the Judges of the Supreme Court possess, for very good reasons, an independent tenure of office. No election reaches them. If, with this tenure, they betray their trusts, Heaven save us! Let us hope for better results. The past, certainly, may encourage us. Let us hope that we shall never see the time when there shall exist such an awkward posture of affairs, as that the Government shall be found in opposition to the Constitution, and when the guardians of the Union shall become its betrayers.

'Gentlemen, our country stands, at the present time, on commanding ground. Older nations, with different systems of government, may be somewhat slow to acknowledge all that justly belongs to us. But we may feel, without vanity, that America is doing her part, in the great work of improving human affairs. There are two principles, gentlemen, strictly and purely American, which are now likely to overrun the civilized world. Indeed they seem the necessary result of the progress of civilization and knowledge. These are, first, popular Governments, restrained by written Constitutions; and, secondly, universal education. Popular Governments and general education, acting, and re-acting, mutually producing and re-producing each other, are the mighty agencies which, in our days, appear to be exciting, stimulating, and changing civilized societies. Man every where is now found demanding a participation in Government; and he will not be refused; and he demands knowledge as necessary to self-government. On the basis of these two principles, liberty and knowledge, our own American System rests. Thus far we have not been disappointed in their results. Our existing institutions, raised on these foundations, have conferred on us almost unmixed happiness. Do we not hope to better our condition by change? When we shall have nullified the present Constitution, what are we to receive in its place? As fathers do we wish for our children better Government, or better laws? As members of society, as lovers of our country, is there any thing we can desire for it better than that, as ages and centuries roll over it, it may possess the same invaluable institutions which it now enjoys? For my part, gentlemen, I can only say, that I desire to thank the beneficent Author of all good, for being born *where* I was born, and *when* I was born; that the portion of human existence, allotted to me, has been meted out to me in this goodly land, and at this interesting period. I rejoice that I have lived to see so much developement of truth,—so much progress of liberty,—so much diffusion of virtue and happiness. And through good report and evil report, it will be my consolation to be a citizen of a Republic, unequalled in the annals of the world, for the freedom of its institutions, its high prosperity, and the prospects of good which yet lie before it. Our course, gentlemen, is onward, straight onward, and forward. Let us not turn to the right hand nor to the left. Our path is marked out

for us, clear, plain, bright, distinctly defined, like the milky-way across the heavens. If we are true to our country, in our day and generation, and those who come after us shall be true to it also, assuredly, assuredly, we shall elevate her to a pitch of prosperity and happiness, of honor and power, never yet reached by any nation beneath the sun.

'Gentlemen, before I resume my seat, a highly gratifying duty remains to be performed. In signifying your sentiments of regard, you have kindly chosen to select as your organ for expressing them, the eminent person near whom I stand. I feel, I cannot well say how sensibly, the manner in which he has seen fit to speak on this occasion. Gentlemen, if I may be supposed to have made any attainment in the knowledge of constitutional law, he is among the masters in whose schools I have been taught. You see near him a distinguished magistrate, long associated with him in judicial labors, which have conferred lasting benefits, and lasting character, not only on the State, but on the whole country. Gentlemen, I acknowledge myself much their debtor. While yet a youth, unknown, and with little expectation of becoming known, beyond a very limited circle, I have passed days and nights, not of tedious, but of happy and gratified labor, in the study of the judicature of the State of New York. I am most happy to have this opportunity of publicly acknowledging the obligation, and of repaying it, so far as it can be repaid, by the poor tribute of my profound regard, and most sincere good wishes.

'Gentlemen, I will no longer detain you, than to propose a toast.

'"The city of New York; herself the noblest eulogy on the Union of the States."'

On reviewing the numerous publications of Mr. Webster, we are astonished at the amount of his labors; and particularly when we reflect that these published speeches are, in fact, but a small part of what might have been brought out, if he would have consented to have them issue from the press. Those we have, abound in useful information, and have a direct bearing upon the welfare of the country. He has made himself master of our history, and that of other countries, to develop the principles on which our Republic is founded; he makes use of every fair argument to enforce these principles, and spares no pains to explain them to the humblest capacity. Nothing has escaped him in the rise and progress of our country to that prosperity and dignity to which she may justly lay claim. His is a profound view of things,—from the river he has ascended to the fountain, and tasted of the waters as they gushed from the mountain side. He has put the Governments and laws of all ancient time into the alembic of his mind, and the crude earths, and meaner minerals are separated from the precious ores. These writings are so full of matter, and that so useful, that they will form a text-book, and an authority on all great constitutional questions in time to come. These writings have all a high moral character. There are no local feelings,—no sectional views,—which make party-strife, and injure the dignity of a people, wherever and whenever they are indulged;—they relate to *the country*,—to *the whole country*,—and not for any particular portion of time, but now and for ever. Every thing about his works is moral; his politics,—his history,—his science,—and his letters, are marked by a strong morality,—one intimately connected with *faith*, *hope*, and *charity*, the constituents of religion.

His works are invaluable, as models for our rising generations of public men, who are to give us laws in time to come, and direct the destinies of the nation. His works are chaste, and sometimes severe, in their style of composition; direct, nervous, and commanding; full of vigor,—Roman vigor. There are no relaxed muscles,—no feeble spots about them,—in their motion, or their repose, they exhibit the spirit of antiquity. He asks for no other inspiration than that which flows from the fountains of truth, as opened by the Genius of History. Elevated by the copious draughts he has drank, he gathers lessons of wisdom from the course of time, and pours them out for his country,—that country whose glories are wound around his heart, and burn upon his lips, a living flame.

It is common for men to find resemblances where none exist, and to run parallels where there are no resemblances. The moderns go back to the ancients, and each great man finds his prototype in the ages which have past. The writer of these remarks will not ransack the pages of ancient history for resemblances, but simply ask permission of the reader to quote the following observations upon the great Athenian orator, and his works, made by two of the best critics of the present age,—Chalmers and Blair,—and then leave the reader to find what similarity he may between the American and Grecian orator.

'These orations are strongly animated, and abounding with the impetuosity and fire of public spirit. The figures which he uses, rise naturally from the subject, and are employed sparingly, for splendor and ornament, do not distinguish the compositions of Demosthenes. His character, as an orator, depends upon an energy of thought peculiar to himself, which elevates him above all others. Things, not words, appear

to be the objects of his attention. He has no parade and ostentation; no methods of insinuation; no labored introductions: but like a man fully possessed by his subject, after preparing his audience by a sentence or two for hearing plain truths, he enters directly on business, warming the mind, and impelling to action.

'His style is strong and concise, though sometimes, it must not be dissembled, harsh and abrupt. His words are very expressive; his arrangement is firm and manly; and though far from being unmusical, yet it seems difficult to find in him that studied but concealed number and rhythm, which some of the ancient critics are fond of attributing to him. Negligent of these lesser graces, one would rather conceive him to have arrived at the sublime, which lies in sentiment.

'His action and pronunciation are recorded to have been uncommonly vehement and ardent; which from the manner of his composition, we are led to believe. He is, on every occasion, grave, serious, passionate, taking every thing in a high tone; never lets himself down, nor attempts any thing like pleasantry. If any fault can be found with his admirable eloquence, it is, that he sometimes borders on the hard and dry. He may be thought to want smoothness and grace; which Dionysius of Halicarnassus attributes to his imitating too closely the manner of Thucydides, who was his great model for style. But these defects are far more than compensated by his admirable and masterly force of masculine eloquence, which, as it overpowered all who heard it, cannot at this day be read without emotion!'

When he came to Boston, he could not have been ranked among the first scholars of our country, speaking in a general sense; for there were many in his own circle of friends before him in classical learning, who had spent their days and nights upon Greek and Roman literature. Perhaps he had not felt this before. He could not, in his busy course, have been profound in ancient learning; but his pride and his taste came to his aid, and he commenced the study of the classics with the ardor of youth, in the maturity of his judgment; and such devotion at the shrine of Apollo and the Muses, is always blessed by the god. These acquirements gave a mellowness and finish to his speeches and writings, which they had not possessed so conspicuously before. Like Lionardo da Vinci, he added to the magnificence of his early designs all the gatherings of his experience and the improvements of his taste. This is the noblest proof of true genius. It is seldom that bold outlines are patiently finished up. This was, perhaps, in no small measure, owing to his new position; for the situation of every man has much to do with his exertions, and in the end with his reputation, even if it does not absolutely alter his character essentially. If it be true, that

> 'Pigmies are pigmies still though placed on alps,
> And pyramids are pyramids in vales,'

yet, when the latter are placed on an eminence, their morning and evening shadows are cast at greater length, and the vast piles are seen, in all their magnificence, at a much greater distance than if placed in vales. Coming to the metropolis of New England, he was indeed set upon a hill. It was a happy exchange of place, for he was made for that city and that city for him. There he seems to be as great a favorite as Pericles was in Athens; and for aught I can see, his power and influence are likely to continue as long. For fifteen years it has been waxing apace without feeling a particle of diminution. It is now and then said, by those usually croaking on the left, that his measure of popularity has reached its acme,—that it is impossible it can last much longer. All this is because they have seen one favorite go down after another and pass away; but it is impossible that he should become unpopular while he retains the powers of his mind, and continues his exertions for the honor of his country. To forget him and his services, would be worse than ostracising the just Athenian. He has the charm which will always retain its power over the people where he lives,—the influence of domestic, social, and religious virtues, added to the powers of his understanding. No poor man ever asked him for pecuniary or professional aid in vain; and his liberality to institutions of learning is well known.

But to speak more particularly of his mental endowments. He is not wanting in originality,—that power of surprising and leading the mind upon some new tract; he seeks, however, for nothing novel or marvellous, whatever he might do in that way; he makes no such attempts. The truths he would enforce or illustrate, are good old-fashioned truths, some of which are 'so long remembered they're forgot.' These he would enforce on the public mind by every power he possesses,—these he believes are the palladium of our country, in her advancement in the scale of nations. His whole soul is devoted to them; and at all times, and in every place, he dwells on them with might and main. He is prepared for the herculean duty. His memory is strong, and has been well stored with facts, and is pregnant with political life; and those stores of knowledge are all laid up in admirable order, ready for use as occasion may

require. From these stores he has drawn copiously, in all his speeches before the public, and that with so much faithfulness and felicity, that his hearers have been astonished that they had never seen our true interests in such a strong light before. The highest genius of man is but to give a more correct image of truth than we are accustomed to see.

His early friends say, that his imagination was once of a high order, and that he wrote poetry,—vigorous, manly poetry,—whenever he chose; and as further proof of the strength of his fancy, they produce a splendid eulogy delivered by him on the death of a class-mate, when in college. This production has the gorgeousness of youthful fancy about it, and was full of pathos. It was, for years, considered by the students as an extraordinary composition, the most splendid that was ever heard within college walls. Portions of it were recited as incontestable proofs of genius, long after Mr. Webster had left his alma mater. But if imagination was then his most striking characteristic, it is not so now. The severe discipline which, in preparing for the bar, he put himself under, soon destroyed the inspirations of the Muse, or rather incorporated her sacred fire with the common masses of law and politics he was constantly forging out for public use, on his assuming the *toga virilis* among his fellow-citizens. Every one was astonished, on his first appearance, at the close, vigorous and mature style of his speeches, when they expected something of the glowing and imaginative kind, from so youthful a genius.

That power of the mind, whatever metaphysicians may call it, which looks over the utmost extent of a subject at a glance; that which grasps all its near and remote bearings, and comprehends its dependencies and relations; and that which can throw out all the results of reasoning upon it to the public in the smallest compass of time, is his, pre-eminently his. It may be called genius, judgment, talent, any thing, no matter what; it is greatness, mental greatness, and will have its influence under all circumstances. Its strength is felt and acknowledged, when no analysis of it can be readily given. Whether this power comes in the gentle dews, falls in the refreshing shower, or sweeps over you in the whirlwind, or communes with you in the still small voice, it is power, divine power, and belongs only to gifted minds.

There are men who say that Mr. Webster has been over-rated; that his qualities are seen through the medium of admiration and partiality. This is not true. There can be no doubt but that some of his overweening friends have, at times, for want of discernment, spoken of his ordinary efforts at the bar, and other places, as wonderful productions, comparing them with his higher efforts and claiming for them the most unbounded praise, and branding all with envy and injustice who did not unite with them *to the full cry*. The greatest minds are sometimes common-place; it is impossible to keep always on the wing, and in upper air, and Mr. Webster is too wise to always attempt it. Some things should pass off as common-place; but there are those who will not suffer it to be done. It is wrong to look only to his orations on great occasions for his proudest efforts. These are noble compositions, powerful discussions of the subject in hand, abounding in strength, pertinent remarks, and striking illustrations, and in our admiration of them we would not yield one jot to any one; but after all this, they are not, perhaps, his most felicitous productions. He cannot lash himself into enthusiasm or passion, and wake his soul to its utmost power in the closet. To put out all his strength, he requires excitements that he cannot find there. He must be roused by some spirit of emulation, rivalry, or honest resentment, to do his best; he must be awakened by the cry, that '*the Philistines are upon thee*,' before the strength of his seven locks are felt. It is before a court and jury, or in the deliberate assembly, that the full extent of his power can be understood. It is when *they compass him in*, that he arises in his might, and *takes the doors of the gates of the city, and the two posts, bar and all*, and removes them where he pleases.

His manners at the bar, and in the deliberative assembly are peculiar. He begins to state his points in a low voice, and in a slow, cool, cautious, and philosophical manner. If the case is of any importance, he goes on, hammering out, link by link, his chain of argument, with ponderous blows, leisurely inflicted; and while thus at labor, you rather see the sinews of the arm, than the skill of the artist. It is in reply, that he comes out in the majesty of intellectual grandeur, and lavishes about him the opulence of intellectual wealth; it is when the darts of the enemy have hit him, that he is all might and soul; it is then that he showers down words of weight and fire. Hear him then, and you will say, that his eloquence is founded on no model, ancient or modern, however strong may be the resemblance to any of them; that he never read the works of a master for imitation; all is his own, excellences and defects. He resembles no American orator we have ever heard; he does not imitate any one in the remotest degree; neither the Addisonian eloquence of Alexander Hamilton, which was the day-spring in a pure and vernal atmosphere, full of health and beauty; nor does he strive for the sweetness of Fisher Ames, whose heart, on all great occasions,

grew liquid, and he could pour it out like water. Ames waved the wand of the enchantress, and a Paradise arose, peopled with ethereal beings, all engaged in pursuing an immortal career. Not so with Mr. Webster. He works upon earth, on the business of men. Air, water, all the elements are at his command, all vassals of his will, and over these his sway is herculean. All is of mortal birth, but of gigantic proportions; his labors are not numbered by dozens, nor confined to the destroying of monsters; or changing the beds of rivers; but in serving his fellow-men involved in difficulties, and in erecting national monuments for the present, and for future ages.

He never strives to dazzle, astonish, or confuse, but goes on to convince and conquer by great but legitimate means. When he goes out to battle, it is without squire, aid-de-camp, or armor-bearer, although hundreds are ready to take any part about his person. In his conflict he trusts to no arm but his own, he rests only on the staff of his own spear. He asks for no trophies but his own conquests; he looks not around for the laurel of victory; but it falls from the hands of all, and binds his brow, until he goes out again on some new exploit.

I believe it may be said of him, that he never shows any of that vanity in debate, which belonged to the very nature of the great Father of Roman eloquence, and was conspicuous in all his public acts. But if he never said with him, 'video patres conscripti, in me omnium ora atque oculus esse conversos,' yet, from his swelling veins and curled lip, you would judge that he had no small share of that sin 'for which fell the angels;' but this lofty carriage and haughty look lasts only while the fit is on him to repel what he conceives to be some indignity offered to his client or his cause.

Some of his admirers talk of his wit in debate. There is often a piquancy and girding retort in his arguments, that by some may be called wit; but it is not the wit of Sheridan, or of any professed wit; nor that wit which sparkles out, and illumines the subject under discussion, and seems to be the offspring of the moment; but is a matter of long and previous deliberation, perhaps of frequent rehearsal. Instead of those pyrotechnics of the war of words, Webster's speeches abound in the burning intensity of that heat which sheds a flash of light around, such as we see proceeding from a glowing mass of iron, when drawn by a powerful arm across the anvil. In the United States, there have been, and there now are, men of some one or more qualifications, superior to any single trait of Mr. Webster's mind. Some have more learning, some have a sweeter voice, others have a more refined taste, and not a few, more imagination; but in the combination of all these powers, he has no equal. He seizes his subject, turns it to the light, and, however difficult, soon makes it familiar; however intricate, plain; and with a sort of supernatural power, he *possesses* his hearers, and controls their opinions. His friends yield at once with a delighted willingness, and his opponents give up after a few intellectual struggles; even those who talk on against him, show that their tones are altered, and that they are conscious of the victory he has achieved over them, and the thraldom in which they are placed.

The '*reluctantes dracones*,' after he has brushed the swarm of flies away, soon become quiet in his grasp.

There are many, and those too of no little intelligence, who think, and avow their opinions, that the present race of politicians is inferior to that which has just passed away; and to account for their opinions, they say it requires less talent to administer a government than to make a Constitution, and less energy to cultivate peace than to fight out a revolutionary war. We are not converts to this doctrine. To equipoise the General Government with State rights; to keep all safe on the waves of party violence; to keep the great States from infringing on the rights of the small; and to take care that no State should oppress its own citizens, is quite as hard a task, and requires as much mind, prudence, labor and calculation, as did the great work of the preceding generation—that of establishing national independence, and fixing upon a form of popular government. The growth and resources of a country—its capacity for improvements—its riches in soil and forests, in waters and mines, give ample scope for the mind of the statesman who extends his views over the *whole*, and *into all* that relates to his country. But what great mind can rest satisfied with exploring the physical capacities of a country only? Will he not look to the cultivation of the intellectual faculties also, as the only means of preserving national virtues and liberal principles? The best manner of producing the highest mental cultivation, is a subject of deep consideration; of quite as much importance, and requiring as high powers, as the efforts of spreading a constitution on paper. Every day the character of a people, as well as that of an individual, is undergoing some change; and every shade of change must be watched by a sagacious politician, if he would prepare himself to be useful to the public.

The fields of knowledge are rapidly increasing in number and extent; and there are subjects enough for the most powerful and devoted statesman to grapple with in the longest life. It takes a good head as well as a pure heart to make a patriot; and a

good share of acquirement added to that to make a statesman; and to bring out an influential politician, he should superadd an active zeal and a good practical knowledge of business. The shallow, raving, fuming politician, pivoted on self, with short-sighted views, who deals out saws, and parrots maxims; whose general knowledge is drawn from the rotten philosophy of party journals; attempts to assume, and often does take the place of the pure politician. How long does he keep it. Perhaps long enough to answer his purpose—to get money out of his devotion to the cause; but he can secure no honest fame—he passes away with the day. The hour that consigns him to the grave gives him up to oblivion; or if remembered at all, it is only through the medium of his defects. These politicians, if they can be so called without violence to language, I grant, ought not to be named with those who assisted to establish our independence, to form our Constitutions, or frame our early laws; but those who, at the present time, are acquainted with the science of government and the history of nations; who add new beauties to the institutions of the government, by patient developement, and give the Constitution new strength, by judicious and profound explanations; and who break down error and falsehood with arguments drawn from practical experience, are as great, as important, as useful, as those who devised and organized our excellent form of government. In fact, there are more requisitions on sagacity, talent and knowledge now, than there were in the earlier days of our Republic. A hundred can quarry, square, smooth and polish the stones of the capitol, to one who can throw an arch to support the dome, or sculpture an image to adorn its walls. There is no period of time in which all the mind we have is not required for public and private uses, though at some epochs it is more valued than at others.

Mr. Webster's enemies say that he is ambitious. This will not be denied by his friends. But can there be such a thing as a statesman without ambition? Even the martyr's bosom is not free from ambition; for he looks to the crown of glory in another world. There can be nothing great or good without ambition. We will not quarrel about the term; we mean by ambition, that zeal and energy for doing something worthy of life; that determination of leaving some mark upon the age in which we live, that may be called our own; that purpose of alleviating sorrow—of ameliorating hardships—of enhancing blessings—of elevating the humble—of humbling the proud, that is what should be called ambition; and why should we not be ambitious?

That Mr. Webster has failings, no one will deny; for what mortal ever existed without them? But his failings are not such as injure his faculties or impair his usefulness. Some may complain of his coldness; others of his forgetfulness—forgetting themselves, that one known to so many, cannot remember all who know him; and some think that he is not sufficiently ready to acknowledge their merits; but they should remember that the *nil admirari* is frequently an ingredient in a statesman's habits, if not in his creed, and must be forgiven. But after all our speculations and feelings upon the subject, justice in making out her balance-sheet, should allow quite as much for the jealousies of the mediocre and the little, as for the coldness of the great. The one is a sin of omission, and the other of commission, but they grow out of the nature of things, and must be endured.

Mr. Webster has been, say his opponents, a most fortunate man. No one is disposed to dispute this; but he has had nothing in his course to elevate him which might be called accident; such accidents as have no relation or bearing on the character of the individual benefited by those accidents; all he has experienced has been the legitimate consequence of capacity, attainments, and well devised plans. He has not been raised, as many second-rate men have been, on the billows of party strife, and carried to the pinnacle of power by chance; and when down, excite only wonder at their ever having been elevated. Mr. Webster has had no honor given him that he has not deserved—he has had no honor, that if taken away would diminish his reputation. Throw him high and dry in a storm, and he would as easily launch again, as the eagle could lift his wings from his resting-place to sail in upper regions.

He has flattered no set of men for their influence, nor truckled to any in office for their patronage. He has asked for nothing in the gift of government, nor turned his eyes for a moment on an office in their power to bestow. On his constituents alone he has rested for the *place to stand* to use his powers; but even to these constituents he has made no idle promises. He never told them that their suggestions should be his law, and that he lived only in their graces—the modern doctrine among candidates for seats in the national legislature; but he has sacrificed his repose and his comforts to understand their wants and wishes, while reserving his opinions to himself. He has labored hard to get wholesome laws enacted, when the old ones bore heavily upon any class of people in the community; to the private claims of those north or south, east or west, he has been liberal, when those claims were just and well founded. His constituents were worthy of their representative; for putting entire confidence in his wisdom, integrity and firmness, they gave him no hints for the government of his

conduct in Congress; thinking, wisely, that he knew better there, than they did at a distance, what course to pursue.

It is natural, when intellectual and moral qualities are given to an individual by his biographer, for us to inquire something about his person; we want to know in what form these properties resided, for we fancy a thousand connexions between mind and body—between essence and shape—which may, or may not exist. The person of Mr. Webster is singular and commanding; his height is above the ordinary size, about five feet eleven inches. He is broad across the chest, and stoutly and firmly built; but there is nothing of clumsiness either in his form or gait. His head is very large, his forehead high, with good shaped temples. He has a large, black, solemn looking eye, that exhibits strength and steadfastness, which sometimes burns, but never sparkles. His lips, when his countenance is in repose, shut close—Lavator's mark of firmness; but the changes of his lips make no small part of the strong and varied expressions of his face. His hair is of a raven black, of great thickness, and is generally worn rather short; his head is as yet without a gray hair. His eye-brows are thick, more than commonly arched, and bushy: which, on a slight contraction, give his features the appearance of sternness. But the general expression of his face, after it is properly examined, is rather mild and amiable than otherwise. His movements in the Senate chamber and in the street are slow and dignified. His voice, once heard, is always remembered, but there is no peculiar sweetness in it; its tones are rather harsh than musical; still there is great variety in them; some have a most startling penetration; others, of a softer character, catch the ear and charm it down to the most perfect attention. His voice has nothing of that monotony which falls upon the ear, it may be heard all day without fatiguing the audience. His emphasis is strong, and his enunciation clear, and so distinct that not a syllable escapes any of his hearers. The compass of his voice is so great, that it fills any room, however large, with perfect ease to himself.

The conversational talents of Mr. Webster are admirable; but what he says is spontaneous and extempore, not made up for any particular occasion, as the conversations of professed talkers and wits are, who come out to monopolize the eloquence of the drawing-room or of the banquet. There are times, however, when he awakes to all the blandishments of the social hour, and bears his part of the *cænæ Deum* without a rival; but this is not often. On a journey, or in a retreat from business, he throws aside all his grave habits of thinking, and mingles familiarly with those who are capable of giving or receiving any information; and his superiority is as fully acknowledged here, as in his public labors. Most distinguished statesmen are not fitted by education for promiscuous society. One of the evils attending great men in England and other aristocratic countries is, that they have but little acquaintance with the middling classes in society; and many of them, from being educated privately, have never tried their corporeal and mental strength with beings of their own age. When mind contends with mind, without any of the distinctions of society, in a public school, the powers of each are very accurately measured, and the youth grows up with a proper knowledge of his own capacity. Mr. Webster had every advantage for this intellectual discipline. Born among the yeomanry of New-Hampshire—a shrewd, inquisitive, communicative people—he began to talk as soon as to think. The process of an early education among them is catechetical, and the youth is accustomed to learn, both by answering and putting questions among all his friends, from his first opening a book. Thus educated, a statesman has an acquaintance with all classes of men; he knows the views of every one on the great questions of morals, politics and religion, from the highest to the lowest; for these subjects are freely discussed by all. These early lessons of the *road and the hearth*—of the school-room and the vestry—are never forgotten; they mingle in his riper thoughts, and often influence his mature judgment. Primary instruction can never be effaced; it is incorporated with the growth of mind, and makes a part of our intellectual character.

It often happens that mighty minds weaken their energies and waste their time on subjects, perhaps pleasant to them, but of no great use or importance to mankind; but it was not so with Mr. Webster, he has turned his attention to no subject in which his fellow-citizens were not deeply interested. He has been industrious at all times in what was directly useful in the course of his duties, or in acquiring what might assist him in preparing to discharge them. In communities so newly formed, and so rapidly increasing as ours, all things that may be, in any way, used by way of instruction, guide, or example, are of great importance to the people. The pathway of genius in a new-born nation, is blazed from tree to tree, like that of the surveyors of new lands; and the boundaries he fixes, with truth and judgment, become permanent and sacred. What Bacon was to philosophy, Mr. Webster has been to the constitutional law of his country. He has set it upon its true basis, and discovered the strength and beauty of the UNION; and, notwithstanding the doubts and fears of

many, showed the fitness of the Constitution for the duration and prosperity of the Republic.

A true lover of his country from principle, and defender of it from duty, he has felt as much as any one the abuse which has been heaped upon it by Europeans, particularly by some score of travellers, who have hurried through it, and saw just enough to substantiate the fact that they had put a foot on our soil, but knew nothing of us as a people. He has never railed on this subject, nor returned their revilings; but he put in a more effectual answer to their false allegations, by giving his own works to the public. What better method could have been devised? The great doctrines he has advocated, he has seen prevailing among civilized man, and becoming paramount to all opposition. Public opinion has struck a blow, which makes every government in Europe tremble. In the confusion between frenzy and fear, it is to be hoped that they will turn their eyes to the lovely and permanent principles of constitutional law, as explained by our jurists and statesmen, and learn from the western world the practical lessons of freedom.

On the basis of his own merits Mr. Webster may rest his fame, for those merits are not accidental, or the growth of a few short years in political life. No sudden burst of popularity has carried him upwards to receive the plaudits of a nation, he might have momentarily served, and which some sudden reverse of fortune might as easily destroy, and bring the favorite to the level of ordinary men. He is firmly established in the hearts of his countrymen, and the press has taken his reputation into lasting keeping. Much has necessarily been given to the passing hour, which will never be recorded; a great portion of his labors as an advocate will not be remembered, but enough remains of his forensic and legislative exertions, fixed and settled, to establish his reputation, and to preserve it through all the ages of this Republic. There is yet, thank God, 'no storied urn or consecrated bust,' to commemorate his talents or his virtues, for he still lives in the strength of manhood 'and reason's prime,' to serve his country. But he has done enough for fame; his reputation is already written upon the page of history. When a grateful country shall erect a temple for her worthies, he will stand a colossal figure for the pride of the nation, and the delight of those who love to contemplate the finest efforts of human genius.

ADDITION TO THE FIRST EDITION OF THE LIFE OF WEBSTER.

From the period which closed the first edition of the life of Mr. Webster, to the present hour, March, 1835, he has been constantly before the public in the performance of his arduous and exalted duties. He has pursued his course with inflexible integrity, approving the course pursued by the administration whenever he could, and fearlessly opposing their measures when he conscientiously believed they were wrong. Every eye has been upon him, but he has sacrificed nothing for a temporary popularity, nor attempted to escape a measure of responsibility when he might if he had been guided only by policy. He has protected the Constitution at all hazards, and deserves to be considered its first champion by every part of the community.

On the 25th and 28th of May, 1832, Mr. Webster delivered speeches in the Senate, upon the question of renewing the charter of the United States Bank. From the first, the following extract is made.

When Mr. Dallas, from Philadelphia, had spoken on the bill, 'Mr. Webster said that though he was entirely satisfied with the general view taken by the Chairman of the Committee, (Mr. Dallas,) and with his explanation of the details of the bill, yet there were a few topics upon which he desired to offer some remarks; and if no other gentleman wished at present to address the Senate, he would avail himself of this opportunity.' Mr. Webster adverted to the origin of the Bank, and gave a history of it, showing the objections made to its creation, and in what manner time had disposed of them; he then proceeded to discuss the main question of the renewal of the charter.

'The question now is, sir, whether this institution shall be continued? We ought to treat it as a great public subject; to consider it, like statesmen, as it regards the great interests of the country, and with as little mixture as possible of all minor motives.

'The influence of the Bank, Mr. President, on the interests of the Government, and the interests of the People, may be considered in several points of view. It may be regarded as it affects the currency of the country; as it affects the collection and disbursement of the public revenue; as it respects foreign exchanges; as it respects do-

mestic exchanges; and as it affects, either generally or locally, the agriculture, commerce, and manufactures of the Union.

'First, as to the currency of the country. This is, at all times, a most important political object. A sound currency is an essential and indispensable security for the fruits of industry and honest enterprise. Every man of property or industry, every man who desires to preserve what he honestly possesses, or to obtain what he can honestly earn, has a direct interest in maintaining a safe circulating medium; such a medium as shall be a real and substantial representative of property, not liable to vibrate with opinions, not subject to be blown up or blown down by the breath of speculation, but made stable and secure by its immediate relation to that which the whole world regards as of permanent value. A disordered currency is one of the greatest political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness. It wars against industry, frugality and economy; and it fosters the evil spirits of extravagance and speculation. Of all the contrivances for cheating the laboring classes of mankind, none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's field by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation, these bear lightly on the happiness of the mass of the community, compared with fraudulent currencies, and the robberies committed by depreciated paper. Our own history has recorded, for our instruction, enough, and more than enough, of the demoralizing tendency, the injustice, and the intolerable oppression, on the virtuous and well disposed, of a degraded paper currency, authorized by law, or any way countenanced by Government.

'We all know, sir, that the establishment of a sound and uniform currency was one of the great ends contemplated in the adoption of the present constitution. If we could now fully explore all the motives of those who framed, and those who supported, perhaps we should hardly find a more powerful one than this. The object, indeed, is sufficiently prominent on the face of the Constitution itself. It cannot well be questioned, that it was intended by that Constitution to submit the whole subject of the currency of the country, all that regards the actual medium of payment, and exchange, whatever that should be, to the control and legislation of Congress. Congress can alone coin money—Congress can alone fix the value of foreign coins. No State can coin money; no State can fix the value of foreign coins; no State (nor even Congress itself) can make any thing a tender but gold and silver in the payment of debts; no State can emit bills of credit. The exclusive power of regulating the metallic currency of the country would seem necessarily to imply, or, more properly, to include, as part of itself, a power to decide how far that currency should be exclusive; how far any substitute should interfere with it, and what that substitute should be. The generality and extent of the power granted to Congress, and the clear and well defined prohibitions on the States, leave little doubt of an intent to rescue the whole subject of currency from the hands of local legislation, and to confer it on the General Government. But, notwithstanding this apparent purpose in the Constitution, the truth is, that the currency of the country is now, to a very great extent, practically and effectually under the control of the several State governments, if it be not more correct to say, that it is under the control of the banking institutions, created by the States; for the States seem first to have taken possession of the power, and then to have delegated it.

'Whether the States can constitutionally exercise this power, or delegate it to others, is a point, which I do not intend, at present, either to concede or to argue. It is much to be hoped, that no controversy on the point may ever become necessary. But it is matter highly deserving of consideration, that although clothed by the Constitution with exclusive power over the metallic currency, Congress, unless through the agency of a Bank established by its authority, has no control whatever over that which, in the character of a mere representative of the metallic currency, fills up almost all the channels of pecuniary circulation.

'In the absence of a Bank of the United States, the State Banks become effectually the regulators of the public currency. Their numbers, their capital, and the interests connected with them, give them, in that state of things, a power which nothing is competent to control. We saw, therefore, when the late war broke out, and when there was no national bank in being, that the State institutions, of their own authority, and by an understanding among themselves, under the gentle phrase of suspending specie payments, every where south of New England, refused to redeem their notes. They were not called to answer for this violation of their charters, as far as I remember, in any one State. They pleaded the urgency of the occasion, and the public distresses; and in this apology the State Governments acquiesced. Congress, at the same time, found itself in an awkward predicament. It held the whole

power over coins. No State, or State institution, could give circulation to an ounce of gold or silver, not sanctioned by Congress. Yet all the States, and a hundred State institutions, claimed, and exercised the right of driving coin out of circulation by the introduction of their own paper; and then of depreciating and degrading that paper, by refusing to redeem it. As they were not institutions created by this Government, they were not answerable to it. Congress could not call them to account; and if it could, Congress had no bank of its own whose circulation could supply the wants of the community. Coin, the substantial constituent, was, and was admitted to be, subject only to the control of Congress; but paper, assuming to be a representative of this constituent, was taking great liberties with it, at the same time that it was no way amenable to its constitutional guardian. This suspension of specie payments was, of course, immediately followed by great depreciation of the paper. It shortly fell so low, that a bill on Boston could not be purchased at Washington under an advance of from twenty to twenty-five per cent. I do not mean to reflect on the proceedings of the State banks. Perhaps their best justification is to be found in the readiness with which Government itself borrowed of them their paper, depreciated as it was; but it certainly becomes us to regard, attentively, this part of our experience, and to guard, as far as we can, against similar occurrences.

'I am of opinion, sir, that a well conducted National Bank has an exceedingly useful and effective operation on the general paper circulation of the country. I think its tendency is manifestly to restrain, within some bounds, the paper issues of other institutions. If it be said, on the other hand, that these institutions, in turn, hold in check the issues of the National Bank, so much the better. Let that check go to its full extent. An over-issue by the Bank itself no one can desire. But it is plain, that, by holding the State institutions, which come into immediate contact with itself and its branches, to an accountability for their issues, not yearly or quarterly, but daily and hourly, an important restraint is exercised. Be it remembered always, that what it is to expect from others, it is to perform itself; and that its own paper is, at all times, to turn into coin by the first touch of its own counter.

'But, Mr. President, so important is this object, that I think, that, far from diminishing, we ought rather to increase and multiply our securities; and I am not prepared to say, that even with the continuance of the Bank charter, and under its wisest administration, I regard the state of our currency as entirely safe. It is evident to me, that the general paper circulation has been extended too far for the specie basis on which it rests. Our system, as a system, dispenses too far, in my judgment, with the use of gold and silver. Having learned the use of paper, as a substitute for specie, we use the substitute, I fear, too freely. It is true, that our circulating paper is all redeemable in gold and silver. Legally speaking, it is all convertible into specie at the will of the holder. But a mere legal convertibility is not sufficient. There must be an actual, practical, never ceasing convertibility. This, I think, is not at present sufficiently secured; and as it is matter of high interest, it well deserves the serious consideration of the Senate. The paper circulation of the country is, at this time, probably, seventy-five or eighty millions of dollars. Of specie, we may have twenty or twenty-two millions; and this principally in masses, in the vaults of the banks. Now, sir, this is a state of things which, in my judgment, leads constantly to over trading, and to the consequent excesses and revulsions, which so often disturb the regular course of commercial affairs. A circulation consisting, in so great a degree, of paper, is easily expanded, to furnish temporary capital to such as wish to adventure on new enterprises in trade; and the collection in the banks of most of what specie there is in the country, affords all possible facility for its exportation. Hence, over trading does frequently occur, and is always followed by an inconvenient, sometimes by a dangerous, reduction of specie. It is in vain that we look to the prudence of banks for an effectual security against over trading. The directors of such institutions will generally go to the length of their means in cashing good notes, and leave the borrower to judge for himself of the useful employment of his money. Nor would a competent security against over trading be always obtained, if the banks were to confine their discounts strictly to business paper, so denominated; that is, to notes and bills which represent real transactions, having been given and received, on the actual purchase and sale of merchandise; because these transactions themselves may be too far extended. In other words, more may be bought than the wants of the community may require, on the speculative calculation of future prices. Men naturally have a good opinion of their own sagacity. He who believes merchandise is about to rise in price, will buy merchandise, if he possesses money, or can obtain credit. The fact of actual purchase, therefore, is not proof of really subsisting want; and, of course, the amount of all purchases does not correspond always with the entire wants or necessities of the community. Too frequently it very much exceeds that measure. If, then, the discretion of the banks, exercised in deciding the amount

of their discounts, is not a proper security against over trading; if facility in obtaining bank credits naturally fosters that spirit; if the desire of gain and love of enterprise constantly cherish it; and if it finds specie collected in the banks inviting exportation, what is the remedy, suited and adequate to the case? Now, I think, sir, that a closer inquiry into the direct source of the evil will suggest the remedy. Why have we so small an amount of specie in circulation? Certainly the only reason is, because we do not require more. We have but to ask its presence, and it would return. But we voluntarily banish it, by the great amount of small bank notes. In most of the States the banks issue notes of all low denominations, down even to a single dollar. How is it possible, under such circumstances, to retain specie in circulation? All experience shows it to be impossible. The paper will take the place of the gold and silver. When Mr. Pitt, in the year 1797, proposed, in Parliament, to authorize the Bank of England to issue one pound notes, Mr. Burke lay sick at Bath of an illness from which he never recovered, and he is said to have written to the late Mr. Canning, "Tell Mr. Pitt, that if he consents to the issuing of one pound notes, he must never expect to see a guinea again." The one pound notes were issued, and the guineas disappeared. A similar cause is now producing a precisely similar effect with us. Small notes have expelled dollars and half dollars from circulation in all the States in which such notes are issued. On the other hand, dollars and half dollars abound in those States which have adopted a wiser and safer policy. Virginia, Pennsylvania, Maryland, Louisiana, and some other States, I think, seven in all, do not allow their banks to issue notes under five dollars. Every traveller notices the difference, when he passes from one of these States into those where small notes are allowed. The evil, then, is the issuing of small notes by State banks. Of these notes, that is to say, of notes under five dollars, the amount now in circulation is, doubtless, eight or ten millions of dollars. Can these notes be withdrawn? If they can, their place will be immediately supplied by a specie circulation of equal amount. The object is a great one, as it is connected with the safety and stability of the currency and may well justify a serious reflection on the means of accomplishing it. May not Congress and the State Governments, acting, not unitedly, but severally, to the same end, easily and quietly attain it? I think they may. It is but for other States to follow the good example of those which I have mentioned, and the work is done. As an inducement to the States to do this, I propose, in the present bill, to reserve to Congress a power of withdrawing from circulation a pretty large part of the issues of the Bank of the United States. I propose this, so that the State banks may withdraw their small notes, and find their compensation in a larger circulation of those of a higher denomination. My proposition will be, that at any time after the expiration of the existing charter of the Bank, that is, after 1836, Congress may, if it see fit, restrain the Bank from issuing, for circulation, notes or bills under a given sum, say ten, or twenty dollars. This will diminish the circulation, and, consequently, the profits of the Bank; but it is of less importance to make the Bank a highly profitable institution to the stockholders, than that it should be safe and useful to the community. It ought not, certainly, to be restrained from the enjoyment of all the fair advantages to be derived from the discreet use of its capital, in banking transactions; but the leading object, after all, in its continuance is, and ought to be, not private emolument, but public benefit.

'It may, perhaps, strike some gentlemen, that the circulation of small notes might be effectually discouraged, by refusing to receive not only all such small notes, but all notes of such banks as issued them, at the custom houses, land offices, post offices, and other places of public receipt, and by causing them to be refused also, either in payment or deposite, at the Bank of the United States. But the effect of such refusal may be doubtful. It would certainly, in some degree, discredit such notes, but probably it would not drive them out of circulation altogether; and if it should not do this, it might, very probably, increase their circulation. If, in some degree they become discredited, to that degree they would become cheaper than other notes; and universal experience proves, that of two things which may be current, the cheaper will always expel the other. Thus silver itself, because it is proportionally cheaper with us than gold, has driven the gold out of the country; that is to say, we can pay a debt of one hundred dollars, by tendering that number of Spanish or American dollars. But we cannot go into the market and buy ten American eagles for these hundred silver dollars. They would cost us a hundred and four. Thus, as we can pay our debts cheaper in silver than in gold, we use nothing but silver, and the gold goes where it is more highly valued. The same thing always happens between two sorts of paper, which are found at the same time in circulation. That which is cheaper, or of less value than the other, always drives its more respectable associate out of its company.'

In the autumn of 1832, the people of the Commonwealth of Massachusetts exhibited

a strong, patriotic feeling, in regard to the situation of the country, and called a convention, composed of delegates from all, or most of the towns in the State. It was 'an assembly of the best hearts' and highest minds within her territory. This body held their meeting at Worcester, on the 12th of October. They were addressed by many enlightened minds, but all waited with intense anxiety to hear Mr. Webster.—He came to his duty with deeper feeling than he had ever before exhibited in a public body. Hitherto in his remarks, if he had painted clouds and darkness hanging over his country, he never closed his remarks without some flashes of lightning on the right, to leave an augury of hope for the attentive listener, and full believer in the redeeming spirit of the people; but now, he dwelt only upon our hold on the Constitution as the ark of safety. This speech made a wonderful impression upon his audience, and as our limits will not permit of making a long extract from it, we will venture to insert an admirable notice of this address, which appeared in the Essex Gazette, soon after it was delivered. It was believed to have come from the pen of one well known in the annals of American literature, whose works have often been read and admired by his countrymen for many years.

'In all ages, and in all countries, and in all parties, the great mass of political men have been moved by selfishness. The object may have been laudable, patriotic, and even holy; but its advocates have discovered in the midst of their zeal for its attainment, the lurking principle of their action. Self-interest has blended with their *amor patria*. The broad ground of their philanthropy has been eventually narrowed down to the single point of self-aggrandizement.

'Occasionally however, an individual has been found standing out in full relief from his contemporaries—too pure for suspicion—too lofty in his own intellectual power to need that fictitious reputation which is derived from the breath of others; an individual wearing his honors as the gift of Heaven, to whose native nobility of soul no human station could add dignity—depending on the powers which God had given him, and not on those delegated by man. And if at the present time I were called upon to point out a living illustration of this truth, I should name with confidence Daniel Webster.

'I am a democrat—and the son of a democrat—and I trust I shall never desert the political faith of my fathers. But when I find such a man as Daniel Webster sneered at by the *counterfeit democracy* of the day—when I hear the low vituperations of party malice heaped upon him—when I hear his noble efforts in the cause of his country, answered by the epithet of "*federalist*," applied to him by men in most cases ignorant of its meaning—I feel, in common with every liberal mind, a contempt, a loathing and abhorrence of that party, whatever may be its pretensions, which justifies such mean ingratitude and narrowness of feeling. I believe Mr. Webster to be a Republican—aye, what is more, an *American*, heart and soul. Call him if you will an Aristocrat; he belongs only to that proud nobility, which freemen cherish—the Aristocracy of nature—God has made him what he is. Man could not do it; all the titles in the Herald offices of Europe—the stars, the crowns, the garters could not.

'The first time I ever heard Mr. Webster was on the discussion of a dry question of law. Mr. Wirt was his antagonist. Both were powerful—the former eminently so—the latter, smooth, graceful, as might beseem the eloquent biographer of Patrick Henry. But I confess I left the crowded court room with feelings of disappointment—anticipation had exceeded the reality.

'At the late Convention of the National Republicans of Massachusetts at Worcester, I again heard Mr. Webster. The occasion was one of deep and engrossing interest. Between five and six hundred of our citizens, actuated by one common impulse, had assembled together from all sections of the State,—the Representatives of its intellect and feeling. They had convened to maintain the principles of that Liberty, which their fathers were the first to cherish: not to sustain the interests of individuals—not as partizans—but to preserve the supremacy of the laws, and resist to the last the inroads which had been made upon the sacred ground of the Constitution.—No question of individual preference—no low-minded effort for party power, impressed upon all hearts their deep sense of responsibility. All was at stake,—Liberty—Union—all, for which the tremendous sacrifice of the Revolution had been made. It was natural that at such a time all eyes should be turned to the man, whose well known powers of mind added to his ardent love for the Union, had made him eminently conspicuous amidst the congregated talent and patriotism of the State. It was the first fitting opportunity which he had enjoyed, since the present administration had been in power, of laying bare his whole heart before his constituents—of tracing the rapid progress of the government towards despotism—of revealing all his hopes and all his fears—of raising his warning voice—and of washing his hands of the unhallowed sacrifice of our liberties upon the altar of Ambition. The moment had arrived for exertion, and he did not shrink from its responsibility.

'In the calm and clear exordium of his speech, he asserted his reliance for our future union and happiness, upon the Constitution, and offered briefly his reasons for such a reliance. With a startling change of tone and manner, he demanded what were the means of preserving this sheet anchor of our hope? Who was to *guard* the *guardian?* Who uphold the shield which was to protect the Constitution? He spoke of the attempts of the administration to annihilate the Supreme Judiciary—to strike down the shield which was uplifted to preserve the Constitution for ever inviolate. With mingled sarcasm and indignation he alluded to the prominent acts of the administration; stretching out before the assembly the gloomy chart of our political history for the last four years.

'The peroration was one of the most powerful appeals ever addressed, in any age, or country, to the patriotism of the people. After pointing out the awful gulf, whose verge we were approaching—the horrors of Disunion—the fiendish struggles of civil war,—he earnestly entreated that if the heavens of our Union were to be broken up—if star after star was to sink down and perish utterly, our own Massachusetts might be the last to relinquish the high sphere of which she had been the earliest and brightest ornament. His tones usually so firm and powerful, grew solemn and awful—every breath was repressed—every eye fixed motionless on the speaker,—and a silence, deep—unbroken— gave a thrilling distinctness to that single voice, which faint and low with subdued emotion, fell upon every ear and heart. Every eye followed the movement of his hand, as pointing upwards for a single instant and then tracing his imaginary object slowly and tremulously downward, he spoke of the falling of our Liberties, like the Star of the Apocalypse from Heaven, down—down the gulf of ruin and all unutterable wo. We saw the falling glory shorn of its beams and dim, borne down into utter darkness: we saw the gulf of blackness and blood yawn open to receive it. Closing with a fervent appeal to Massachusetts to remain faithful to the last,—true to herself and to the memory of her earlier times—the last to yield, as the first to demand, the benefits of the Revolution. Overcome with emotion, the strong man sunk into his seat, literally exhausted by the efforts of his mind. The pulseless silence which succeeded for a single instant was broken by one loud, long, universal burst of enthusiastic admiration. The whole assembly started on their feet, leaning eagerly forward, as if to catch another glance of the patriot orator. I had heard and read much of the wonderful efforts of human eloquence; I now saw and felt them all.

'The style of Mr. Webster's eloquence has no model. It is not the smooth, silvery beauty of Burke, it has all the vigor, without the occasional blemishes of Chatham; without the graceful rhetoric of Canning, it has a more regulated power. It has more dignity than that of Brougham. It is not the ready, impassioned, captivating and practical eloquence of our own Clay. But it is something high—calm—noble—the eloquence of a patriot losing sight of himself in his zeal for the public welfare. Its broad, and deep, and powerful current rolls steadily onward, like some great river of his native land, never lingering to hold dalliance with the flowers and foliage of its margin, but constantly and without effort, throwing back and reflecting sunshine and starbeams—the sky and the cloud. His illustrations and comparisons are all fitting and appropriate; they are the green garniture of the oak, not the unnatural misletoe springing from its trunk. W.'

'Mr. President, I do not desire to raise mere pecuniary interests to an undue importance, in political matters. I admit, these are principles and objects of paramount obligation and importance. I would not oppose the President, merely because he has refused to the State what I thought her entitled to, in a matter of money, provided he had made known his reasons, and they appeared to be such as might fairly influence an intelligent and honest mind. But where a State has so direct and so heavy an interest, where the justice of the case is so plain, that men agree in it who agree hardly in any thing else, where her claim has passed Congress, without considerable opposition in either House, a refusal to approve the bill without giving the slightest reason,—and he taking advantage of the rising of Congress to give it a silent go by, *is* an act that may well awaken the attention of the People of the States concerned. It *is* an act calling for close examination. It *is* an act, which calls loudly for justification by its author. And now, sir, I will close what I have to say on this particular subject by showing that on the 22d of March, 1832, the President did actually approve and sign a bill, in favor of South Carolina, by which it was enacted that her claim *for interest upon money* actually expended by her for military stores, during the late war, should be settled and paid; *the money so expended having been drawn by the State from a fund upon which she was receiving interest.* Now this, sir, was precisely the case with Massachusetts.

'Mr. President, I now approach an inquiry of a far more deep and affecting interest. Are the principles and measures of the administration dangerous to the Constitution, and to the Union of the States? Sir, I believe them to be so: and I shall state the grounds of that belief.

'In the first place, any administration is dangerous to the Constitution, and to the Union of the States, which denies the essential powers of the Constitution, and then strips it of the capacity to do the good intended by it.

"The principles embraced by the administration, and expressed in the VETO Message, are evidently hostile to the whole system of protection, by duties of imposts, *on constitutional grounds.* Here, then, is *one* great power struck at once out of the Constitution; and one great end of its adoption defeated. And while this power is thus struck out of the Constitution it is clear that it exists nowhere else; since the Constitution expressly takes it away from all the States.

'The Veto Message denies the constitutional power of creating or continuing such an institution as our whole experience has proved, for maintaining a sound, uniform, national currency, and for the safe collection of revenue. Here is *another* power, long used, but now lopped off. And this power too, thus lopped off from the Constitution, is evidently not within the power of any of the individual States. No State can maintain a national currency; no State Institution can render to the revenue the services performed by a National Institution.

'The principles of the administration are hostile to internal improvements. Here is another power, heretofore exercised in many instances, now denied. The administration denies the power, except with qualifications, which cast an air of ridicule over the whole subject; being founded on such distinctions as between salt water and fresh water, places above Custom Houses and places below; and others equally extraordinary.

'Now, sir, in all these respects, as well as in others, I think the principles of the administration at war with the true principles of the Constitution: and by the zeal and industry which it exerts to support its own principles, it does daily weaken the Constitution, and does put in doubt its long continuance. The inroad of to-day opens the way for an easier inroad to-morrow. When any one essential part is rent away, or what is nearer the truth, when many essential parts are sent away, who is there to tell us *how long any other is to remain?*

'Sir, our situation is singularly paradoxical. We have an administration opposed to the Constitution; we have an opposition which is the main support of the government and the laws. We have an administration which denies to the very government which it administers powers which it has exercised for forty years; it denies the protecting power, the bank power, and the power of internal improvement. The great and leading measures of the national legislature are all resisted by it. These, strange as it may seem, depend on the opposition for support. We have, in truth, an opposition without which it would be difficult for the government to get along at all. I appeal to every member of Congress present (and I am happy to see many here) to say what would now become of the government, if all the members of the opposition were withdrawn from Congress. For myself, I declare my own conviction that its continuance might probably be very short. Take away the opposition from Congress, and let us see what would probably be done the first session. The *Tariff* would be entirely *repealed.* Every enactment having protection by duties as its main object would be struck from the statute book. This would be the first thing done.—Every work of internal improvement would be stopped. This would follow, as a matter of course. The bank would go down, and a *treasury money agency* would take its place. The Judiciary act of 1789 would be repealed, so that the Supreme Court should exercise no power of revision over State decisions. And who would resist the doctrines of *nullification?* Look, sir, to the votes of Congress for the last three years, and you will see that each of these things would, in all human probability, take place at the next session, if the opposition were to be withdrawn. The Constitution is threatened, therefore—imminently threatened, by the very fact that those are entrusted with its administration who are hostile to its essential powers.

'But, sir, in my opinion, a yet greater danger threatens the Constitution and the government; and that is from the attempt *to extend the power of the Executive at the expense of all other branches of the government, and of the people themselves.* Whatever accustomed power is denied to the Constitution, whatever accustomed power is denied Congress, or to the Judiciary, *none is denied to the Executive.* Here, there is no retrenchment; here, no apprehension is felt for the liberties of the people; here it is not thought necessary to erect barriers against corruption.

'I begin, sir, with the subject of removals from office for opinion's sake,—as I think, one of the most signal instances of the attempt to extend executive power. This has been a leading measure, a cardinal point, in the course of the administration. It has proceeded, from the first, on a seated system of proscription for political opinions; and this system it has carried into operation to the full extent of its ability. The President has not only filled all vacancies with his own friends, generally those most distinguished as personal partizans, but he has turned out political opponents, and thus

created vacancies in order that he might fill them with his own friends. I think the number of removals and appointments is said to be *two thousand*. While the administration and its friends have been attempting to circumscribe, and to decry the powers belonging to other branches; it has thus seized into its own hands a patronage most pernicious and corrupting, an authority over men's means of living most tyrannical and odious, and a power to punish freemen for political opinions altogether intolerable.

'You will remember, sir, that the Constitution says not one word about the President's power of removal from office. It is a power raised entirely by construction. It is a constructive power, introduced at first to meet cases of extreme public necessity; but it has now become co-extensive with the Executive will. Calling for no necessity, requiring no exigency, for its existence; but to be exercised at all times without control, without question, without responsibility. When the question of the President's power of removal was debated in the first Congress, those who argued for it limited it to *extreme cases*. Cases, they said, might arise, in which it would be *absolutely necessary* to remove an officer before the Senate could be assembled. An officer might become insane; he might abscond. Sir, from these, and other supposable cases, it was said, the public service might materially suffer, if the President could not remove the incumbent. And it was farther said, that there was little or no danger of the powers being abused for party or personal objects. No President, it was thought, would ever commit such an outrage on public opinion. Mr. Madison, who thought the power ought to exist, and to be exercised in cases of high necessity, declared, nevertheless, that if a President should exercise the power when not called for by any public exigency, and merely for personal objects, *he would deserve to be impeached*. By a very small majority, I think in the Senate by the casting vote of the Vice President, Congress decided in favor of the existing power, upon the grounds which I have mentioned. Granting the power in a case of absolute and clear necessity, and denying its existence every where else.

'Mr. President, we should recollect that this question was discussed, and thus decided, when Washington was in the Executive Chair. Men knew, that, in his hands, the power would not be abused; nor did they conceive it possible that any of his successors could so depart from his great and bright example, as, by abuse of the power, and by carrying that abuse to its utmost extent, to change the essential character of the execution from that of an impartial guardian and executor of the laws, into that of the chief dispenser of party rewards. Three or four instances of removal occurred in the first twelve years of the government. At the commencement of Mr. Jefferson's administration, he made several others, not without producing much dissatisfaction; so much so, that he thought it expedient to give reasons to the people, in a public paper, for even the limited extent to which he had exercised the power. He placed his justification on particular circumstances, and peculiar grounds; which, whether substantial or not, showed, at least, that he did not regard the power of removal an ordinary power, still less as a mere arbitrary one to be used as he pleased, for whatever ends he pleased, and without responsibility. As far as I remember, sir, after the early part of Mr. Jefferson's administration, hardly an instance occurred for near thirty years. If there were any instances, they were few. But at the commencement of the present administration the precedent of these previous cases was seized on, and a *system*, a regular *plan of government*, a well-considered scheme for the maintenance of party power, by the patronage of office, and this patronage to be created by general removal, was adopted, and has been carried into full operation.—Indeed, before Gen. Jackson's inauguration, the party put the system into practice.—In the last session of Mr. Adams's administration, the friends of Gen. Jackson constituted a majority in the Senate; and nominations, made by him to fill vacancies, which had occurred in the ordinary way, were postponed, by this majority, beyond the third of March, for the purpose, openly avowed, of giving the nomination to Gen. Jackson. A nomination for a Judge of the Supreme Court, and many others of less magnitude, were thus disposed of.

'And what did we witness, sir, when the administration actually commenced in the full exercise of its authority? One universal sweep, one undistinguishing blow, levelled against all, who are not of the successful party. No worth, public or private, no services, civil or military, was of power to resist the relentless greediness of proscription. Soldiers of the late war, soldiers of the Revolutionary war, the very contemporaries of the liberties of the country, all lost their situations. No office was too high, and none too low; for *office* was the spoil, and *all the spoils*, it was said, belonged to the *victors!* If a man, holding an office necessary for his daily support, had presented himself covered with the scars of wounds received in every battle, from Bunker Hill to York Town, these would not have protected him against the reckless rapacity of proscription. Nay, Sir, if Warren himself had been among the living

and had possessed an office under government, high or low, he would not have been suffered to hold it a single hour, unless he could show that he had strictly complied with the party statutes, and had put a well marked party collar round his own neck. Look, sir, to the case of the late venerable Major Melville. He was a spirit of 1776, one of the very first to venture in the cause of liberty. He was of the Tea party, one of the very first to expose himself to British power. And his whole life was consonant with this, its beginning. Always ardent in the cause of Liberty, always a zealous friend to his country, always acting with the party which he supposed cherished the genuine Republican Spirit most fervently, always estimable and respectable in private life, he seemed armed against this miserable petty tyranny of party, as far as man could be. But he felt its blow and he fell. He held an office in the Custom House, and had holden it for a long course of years; and he was deprived of it, as if unworthy to serve the country in which he lived, and for whose liberties, in the vigor of his early manhood, he had thrust himself into the very jaws of its enemies. There was no mistake in the matter. His character, his standing, his Revolutionary services, were all well known; but they were known to no purpose. They weighed not one feather against party pretensions. It cost no pains to remove him; it cost no compunction to wring his aged heart with this retribution from his country for his services, his zeal, and his fidelity. Sir, you will bear witness, that when his successor was nominated to the Senate, and the Senate was told who it was that had been removed to make way for that nomination, members were struck with horror. They had not conceived the administration to be capable of such a thing: and yet, they said, what can *we* do? The man is removed:—*we* cannot recall him; we can only act upon the nomination before us! Sir, you and I thought otherwise; and I rejoice that we did think otherwise. We thought it our duty to resist the nomination, to a vacancy, thus created. We thought it our duty to oppose this proscription when, and where, as we constitutionally could. We besought the Senate to go with us, and to take a stand before the country on this great question. We invoked them to try the deliberate sense of the people; to trust themselves before the tribunal of public opinion; to resist at peril, to resist at last, to resist always, the introduction of this unsocial, this mischievous, this dangerous, this belligerent principle, into the practice of the government.

'Mr. President, as far as I know, there is no civilized country on earth, in which, on a change of rulers, there is such an *inquisition for spoil*, as we have witnessed in this free Republic. The Inaugural Address of 1829 spoke of a *searching operation* of government. The most searching operation, sir, of the present administration has been its search for office and place. Whenever, sir, did any English Minister, whig or tory, take such an inquest? When did he ever go down to low water mark, to make an ousting of tide waters? When did he ever take away the daily bread of weighers, and gaugers, and measurers? Or when did he go into the villages, to disturb the little post offices, the mail contracts, and any thing else, in the remotest degree connected with government? Sir, a Britain who should do this, and should afterwards show his head in a British House of Commons, would be received by a universal hiss.

'I have little to say of the selections made to fill vacancies, thus created. It is true, however, that it is a natural consequence of the system which has been acted on, that within the last three years, more nominations have been rejected, on the ground of unfitness, than in all the preceding forty years of the government. And these nominations, you know, sir, could not have been rejected, but by votes of the President's own friends. The causes were too strong to be resisted. Even party attachment could not stand them. In some, not a third of the Senate, in others not ten votes, and in others not a single vote, could be obtained; and this, for no particular reason known only to the Senate; but on general grounds of the want of character and qualifications: on grounds known to every body else as well as to the Senate. All this, sir, is perfectly natural and consistent. The same party selfishness which drives good men out of office, will push bad men in. Political proscription leads necessarily to the filling of offices with incompetent persons, and to a consequent mal-execution of official duties. In my opinion, sir, it will effectually change the character of our government, this acting upon the avowed principle of claiming office by right of conquest, unless the public shall rebuke and restrain it. It elevates party above country; it forgets the common weal, in the pursuit of personal emolument; it tends to form, it does form, we see that it has formed, political combinations, held together by no common principles or opinions among its members, either upon the powers of the government, or the true policy of the country; but held together simply as an association, under the charm of a popular head, seeking to maintain possession of the government by a vigorous exercise of its patronage; and for this purpose agitating, and alarming, and distressing social life by the exercise of a tyrannical party

proscription. Sir, if this course of things cannot be checked, good men will grow tired of the exercise of political privileges. They will have nothing to do with popular elections. They will see that such elections are but a mere selfish contest for office; and they will abandon the government to the scramble of the bold, the daring, and the desperate.

'It seems, Mr. President, to be a peculiar and singular characteristic of the present administration, that it came into power on a cry against abuses, *which did not exist*, and then, as soon as it was in, as if in mockery of the perception and intelligence of the people, *it created those very abuses*, and carried them to a great length. Thus the Chief Magistrate himself, before he came into the chair, in a formal public paper, denounced the practice of appointing members of Congress to office. He said, that if that practice continued, *corruption would become the order of the day;* and as if to fasten, and nail down his own consistency to that point, he declared that it was "*due to himself to practice what he recommended to others.*" Yet, sir, as soon as he was in power, these fastenings gave way, the nails all flew, and the promised *consistency* remains, a striking proof of the manner in which political assurances are sometimes fulfilled.—For, sir, he has already appointed more members of Congress to office than any of his predecessors, in the longest period of administration. Before his time, there was no reason to complain of these appointments. They had not been numerous, under any administration. Under this, they have been numerous, and some of them such as may well justify complaint.

'Another striking instance of the exhibition of the same characteristics, may be found in the sentiments of the Inaugural Address, and in the subsequent practice, on the subject of *interfering with the freedom of elections*. The Inaugural Address declares, that it is necessary to reform abuses which have *brought the patronage of government into conflict with the freedom of elections*. And what has been the subsequent practice? Look to the newspapers;—look to the published letters of officers of the Government, advising, exhorting, soliciting friends and partizans to greater exertions, in the cause of party;—see all done, every where, which patronage and power can do, to effect not only elections in the General Government, but also in every State Government—and then say how well *this* promise of reforming abuses has been kept. At what former period, under what former administration, did public officers of the United States thus interfere in elections? Certainly, sir, never. In this respect, then, as well as in others, that which was not true, as a charge against previous administrations, would have been true, if it had assumed the form of a prophecy, respecting the acts of the present.

'But there is another attempt to grasp, and to wield, a power over public opinion, of a still more daring character, and far more dangerous effects.

'In all popular governments, a FREE PRESS is the most important of all agents and instruments. It not only expresses public opinion, but, to a very great degree, it contributes to form that opinion. It is an engine, for good or for evil, as it may be directed; but an engine of which nothing can resist the force. The conductors of the press, in popular governments, occupy a place, in the social and political system, of the very highest consequence. They wear the character of public instructers. To matters of intelligence, they add matters of opinion. Their daily labors bear directly on the intelligence, the morals, the taste, and the public spirit of the country. Not only are they journalists, recording political occurrences, but they discuss principles, they comment on measures, they canvass characters, they hold a power over the reputation, the feelings, the happiness of individuals. The public ear is always open to their addresses, the public sympathy easily made responsive to their sentiments. It is, indeed, sir, a distinction of high honor, and theirs is the only profession expressly protected and guarded by constitutional enactments. Their employment soars so high in its general consequences, it is so intimately connected with the public happiness, that its security is provided for by the fundamental law. While it acts in a manner worthy of this distinction, the press is a fountain of light, and a source of gladdening warmth. It instructs the public mind, and animates the spirit of patriotism. Its loud voice suppresses every thing, which would raise itself against the public liberty; and its blasting rebuke causes incipient despotism to perish in the bud. But remember, sir, that these are the attributes of a *Free Press* only. And is a press that is purchased or pensioned, more free than a press that is fettered? Can the people look for truths to partial sources, whether rendered partial through fear, or through favor? Why shall not a manacled press be trusted with the maintenance and defence of popular rights? Because it is supposed to be under the influence of a power, which may prove greater than the love of truth. Such a press may screen abuses in government, or be silent. It may fear to speak. And may it not fear to speak, too, when its conductors, if they speak in any but one way, may lose their means of livelihood? Is dependence on government for bread no temptation to screen its abuses? Will the

Press always speak the truth, though the truth, if spoken, may be the means of silencing it for the future? Is the truth in no danger, is the watchman under no temptation, when he can neither proclaim the approach of national evils, nor seem to descry them, without the loss of his place?

'Mr. President, an open attempt to secure the aid and friendship of the public press by bestowing the emoluments of office on its active conductors, seems to me, of every thing we have witnessed, to be the most reprehensible. It degrades both the government and the press. As far as its natural effect extends, it turns the palladium of liberty into an engine of party. It brings the agency, activity, energy and patronage of government, all to bear, with united force, on the means of general intelligence, and on the adoption or rejection of political opinions.

'It so completely prevents the true object of Government, it so entirely revolutionizes our whole system, that the chief business of those in power is directed rather to the propagation of opinions favorable to themselves, than to the execution of the laws. This propagation of opinions, through the press, becomes the main administration duty. Some fifty or sixty editors of leading journals have been appointed to office by the power of the Executive. A stand has been made against this proceeding, in the Senate, with partial success: but by means of appointments which do not come before the Senate, or other means, the number has been carried to the extent I have mentioned. Certainly, sir, the editors of the public journals are not to be disfranchised. Certainly, they are fair candidates either for popular elections, or a joint participation in office. Certainly, they reckon, in their number, some of the geniuses, the best scholars, and the most honest and well principled men in the country. But the complaint is against the *system*, against the *practice*, against the undisguised attempt to secure the favor of the press, by means addressed to its pecuniary interest. And these means, too, draw from the public treasury; being no other than the appointed compensations for the performance of official duties. Sir, the press itself should resent this. Its own character for purity and independence is at stake. It should resist a connexion, rendering it obnoxious to so many imputations. We should point to its honorable denominations, in our Constitutions of Government, and it should maintain the character there ascribed to it, of a FREE PRESS.'

On the 16th of February, 1833, Mr. Webster made a speech in the Senate in reply to one just delivered by Mr. Calhoun on the bill—'Further to provide for the collection of duties on imports.' Previous to his speech Mr. Calhoun submitted the following resolutions:

'*Resolved*, That the people of the several States composing these United States are united as parties to a constitutional compact, to which the people of each State acceded as a separate sovereign community, each binding itself by its own particular ratification; and that the union, of which the said compact is the bond, is a union *between the States* ratifying the same.

'*Resolved*, That the people of the several States, thus united by the constitutional compact, in forming that instrument, and in creating a General Government to carry into effect the objects for which they were formed, delegated to that Government, for that purpose, certain definite powers, to be exercised jointly, reserving at the same time, each State to itself, the residuary mass of powers, to be exercised by its own separate Government; and that whenever the General Government assumes the exercise of powers not delegated by the compact, its acts are unauthorized, and are of no effect; and that the same Government is not made the final judge of the powers delegated to it, since that would make its discretion, and not the constitution, the measure of its powers; but that, as in all cases of compact among sovereign parties, without any common judge, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress.

'*Resolved*, That the assertions that the people of these United States, taken collectively as individuals, are now, or ever have been, united on the principle of the social compact, and as such are now formed into one nation or people, or that they have ever been so united in any one stage of their political existence; that the people of the several States composing the Union have not, as members thereof, retained their sovereignty; that the allegiance of their citizens has been transferred to the General Government; that they have parted with the right of punishing treason through their respective State Governments; and that they have not the right of judging in the last resort as to the extent of the powers reserved, and of consequence of those delegated; are not only without foundation in truth, but are contrary to the most certain and plain historical facts, and the clearest deductions of reason; and that all exercise of power on the part of the General Government, or any of its departments, claiming authority from such erroneous assumptions, must of necessity be unconstitutional—must tend, directly and inevitably, to subvert the sovereignty of the States, to destroy the federal character of the Union, and to rear on its ruins a consolidated

Government, without constitutional check or limitation, and which must necessarily terminate in the loss of liberty itself.'

This speech from Mr. Webster was a direct denial of all and singular the doctrines laid down by Mr. Calhoun,—and he enforced his opinions with strong arguments, drawn from the nature of our *constitutional compact*. He analyzed the instrument itself, and explained its origin and early interpretation with his usual clearness and convincing arguments. He described the effects of *nullification* in all its revolutionary consequences, if proceeded in a single step—after giving the frightful picture of *nullification*, he proceeded—

'And now, sir, against all these theories and opinions, I maintain—

'1. That the constitution of the United States is not a league, confederacy, or compact, between the people of the several States in their sovereign capacities; but a Government proper, founded on the adoption of the people, and creating direct relations between itself and individuals.

'2. That no State authority has power to dissolve these relations; that nothing can dissolve them but revolution; and that, consequently, there can be no such thing as secession without revolution.

'3. That there is a supreme law, consisting of the constitution of the United States, acts of Congress passed in pursuance of it, and treaties; and that, in cases not capable of assuming the character of a suit in law or equity, Congress must judge of, and finally interpret, this supreme law, so often as it has occasion to pass acts of legislation; and, in cases capable of assuming, and actually assuming, the character of a suit, the Supreme Court of the United States is the final interpreter.

'4. That an attempt by a State to abrogate, annul, or nullify an act of Congress, or to arrest its operation within her limits, on the ground that, in her opinion such law is unconstitutional, is a direct usurpation on the just powers of the General Government, and on the equal rights of other States, a plain violation of the constitution, and a proceeding essentially revolutionary in its character and tendency.

'Whether the constitution be a compact between States in their sovereign capacities, is a question which must be mainly argued from what is contained in the instrument itself. We all agree that it is an instrument which has been in some way clothed with power. We all admit that it speaks with authority. The first question then is, what does it say of itself? What does it purport to be? Does it style itself a league, confederacy, or compact between sovereign States? It is to be remembered, sir, that the constitution began to speak only after its adoption. Until it was ratified by nine States, it was but a proposal, the mere draught of an instrument. It was like a deed, drawn, but not executed. The convention had framed it, sent it to Congress then sitting under the confederation, Congress had transmitted it to the State Legislatures, and by these last it was laid before conventions of the people in the several States. All this while it was inoperative paper. It had received no stamp of authority, no sanction; it spoke no language. But when ratified by the people in their respective conventions, then it had a voice, and spoke authentically. Every word in it had then received the sanction of the popular will, and was to be received as the expression of that will. What the constitution says of itself, therefore, is as conclusive as what it says on any other point. Does it call itself a compact? Certainly not. It uses the word compact but once, and that is when it declares that the States shall enter into a compact. Does it call itself a league, a confederacy, a subsisting treaty between the States? Certainly not. There is not a particle of such language in all its pages. But it declares itself a CONSTITUTION. What is a *constitution?* Certainly not a league, compact, or confederacy, but *a fundamental law*. That fundamental regulation which determines the manner in which the public authority is to be executed, is what forms the *constitution of a State*. Those primary rules which concern the body itself, and the very being of the political society, the form of government, and the manner in which power is to be exercised—all, in a word, which form together the *constitution of a State*, these are the fundamental laws. This, sir, is the language of the public writers. But do we need to be informed, in this country, what a *constitution* is? Is it not an idea perfectly familiar, definite, and well settled? We are at no loss to understand what is meant by the constitution of one of the States; and the constitution of the United States speaks of itself as being an instrument of the same nature. It says, this *constitution* shall be the law of the land, any thing in any State *constitution* to the contrary notwithstanding. And it speaks of itself, too, in plain contradistinction from a confederation; for it says that all debts contracted, and all engagements entered into by the United States, shall be as valid under this *constitution*, as under the *confederation*. It does not say, as valid under this *compact*, or this league, or this confederation, as under the former confederation, but as valid under this *constitution*.

'This, then, sir, is declared to be a *constitution*. A constitution is the fundamental

law of the State; and this is expressly declared to be the supreme law. It is as if the people had said, "we prescribe this fundamental law," or "this supreme law," for they do say that they establish this constitution, and that it shall be the supreme law. They say that they *ordain and establish* it. Now, sir, what is the common application of these words? We do not speak of *ordaining* leagues and compacts. If this was intended to be a compact or league, and the States to be parties to it why was is not so said? Why is there found no one expression in the whole instrument indicating such intent? The old confederation was expressly called a *league;* and into this league it was declared that the States, as States, severally entered. Why was not similar language used in the constitution, if a similar intention had existed? Why was it not said, "the States enter into this new league," "the States form this new confederation," or "the States agree to this new compact?" Or, why was it not said, in the language of the gentleman's resolution, that the people of the several States acceded to this compact in their sovereign capacities? What reason is there for supposing that the framers of the constitution rejected expressions appropriate to their own meaning, and adopted others wholly at war with that meaning?

'Again, sir, the constitution speaks of that political system which it established as "*the Government of the United States.*" Is it not doing strange violence to language to call a league or a compact between sovereign Powers a *Government?* The Government of a State is that organization in which the political power resides. It is the political being, created by the constitution or fundamental law. The broad and clear difference between a Government and a league, or compact, is, that a Government is a body politic; it has a will of its own; and it possesses powers and faculties to execute its own purposes. Every compact looks to some power to enforce its stipulations. Even in a compact between sovereign communities, there always exists this ultimate reference to a power to ensure its execution; although, in such case, this power is but the force of one party against the force of another—that is to say, the power of war. But a *Government* executes its decisions by its own supreme authority. Its use of force in compelling obedience to its own enactments, is not war. It contemplates no opposing party having a right of resistance. It rests on its own power to enforce its own will; and, when it ceases to possess this power, it is no longer a Government.'

The whole speech carried out and fearlessly maintained his former doctrines, without petulance at being again forced to advert to them. He had not changed a straw.

In June, 1833, Mr. Webster to restore himself from the effects of the intense labor he had performed at the bar and in the Senate, commenced a journey to the West. He had often been invited by his friends residing there, to make them a visit long before this time, but never found it convenient until now. At Utica, in the State of New York, he was received with every mark of attention by all classes, without distinction of party. At Buffalo, in that part of it called the village of Black Rock, he attended the launching of a vessel which was called "Daniel Webster," in honor of him. On this occasion he made them a short, spirited address, with his usual felicity. He was received with the highest enthusiasm at Cleveland, in the State of Ohio. At Columbus, the seat of government, he was surrounded by admiring friends without reference to party distinction. At Cincinnati he could not avoid accepting the offer of a public dinner, which was attended by a large number of persons from all the respectable classes in society. He made them an excellent speech on the occasion, and left them for his way home.

At Pittsburg, Pennsylvania, he was invited to a public dinner which he declined, but consented to partake of a cold collation. The place fixed upon for this social festivity, was in a delightful grove, which accommodated more than two thousand persons The addresses and the replies were full of talent and patriotism, which made a deep impression on the sons of Penn, who hold, as it were, in their hands, the keys of the Western world. No person in our country, who has travelled without the charm of executive power, has ever received such attentions. It is natural to bow to those who hold high executive or military offices, but seldom do talents and patriotism, without the power of patronage, obtain by a voluntary impulse of an admiring people, a continued ovation from city to city, and from State to State. There was no barren spot in the statesman's pathway; the mountains and vales were all strewed with flowers, and redolent with honest admiration.

On the 5th of February, 1834, Mr. Webster made his report as chairman of 'the Committee of Finance, to whom had been referred the report of the Secretary of the Treasury of the 3d of December, 1833, on the removal of the public deposites from the Bank of the United States, and a resolution, submitted to the Senate by an honorable member from Kentucky, declaring that the reasons assigned by the Secretary for the removal of said deposites are unsatisfactory and insufficient, have agreed on the following report:' Here we again have to take but a small part of this masterly and

luminous argument, showing that by no fair construction of any law of the United States had the Secretary of the Treasury the right of keeping the purse-strings of the nation in his own hands.

'The keeping of the public money is not a matter which is left, or was intended to be left, at the will of the Secretary, or any other officer of the Government. This public money has a place fixed by law, and settled by contract; and this place is the Bank of the United States. In this place it is to remain until some event occur requiring its removal. To remove it, therefore, from this place, without the occurrence of just cause, is to thwart the end and design of the law, defeat the will of Congress, and violate the contract into which the Government has solemnly entered.

'It is fit to be observed that no other law confers on the Secretary such a wide discretion over the public interests in regard to any subject, or gives him a power to act on the rights of others, or on the rights of the public, in any part of his official duties, with so unlimited an authority as is here asserted. Every where else, he appears in the character of a limited and restricted agent. He is the financial officer of the Government; he is the head of the Department of the Treasury. His duty is, to report annually to Congress the state of the finances, and to communicate to either House, when requested, any information respecting the Treasury; and he is to superintend the collection of the revenue. But he has no authority over the circulating medium of the country, either metallic or paper; nor has he the control of the national currency. It is no part of his duty either to contract or expand the circulation of bank paper, nor in any other way to exercise a general superintendence over the money system of the country. These general interests of the Government and the people are not confided to his hands by any of the laws which created his office, and have prescribed his duties; and the committee are of opinion that the charter of the bank no more intended to give such a wide scope to the Secretary in regard to the deposites, than other laws intended to give him the same wide scope in respect to other duties of his office. No intimation of such intention is found either in the charter itself, or in any of the legislative debates which took place in both Houses when the bank was established; or in the discussions which have been had on the various occasions which have been more recently presented for calling forth the sentiment of Congress. In none of these sources is there to be found any proof that the Legislature has delegated, or intended to delegate, this extraordinary power of judging of the general interest of the people to the Secretary of the Treasury. Such a power, did he possess it, would necessarily make him the general superintendent of all the proceedings of the bank; because it would enable him to compel the bank to conform all its operations to his pleasure, under penalty of suffering a removal of the public moneys. This would be little less than placing all the substantial power of managing the bank in his hands. But he is not by law its manager, nor one of its managers; nor has he any right, in any form, to interfere in its management. On the contrary, the very language of the charter rejects all ideas of such general supervision over its concerns by him, or any other officer of Government. That language is, that "*for the management of the affairs of the corporation* there shall be twenty-five directors annually chosen;" and, under the restrictions contained in the charter, these directors are intrusted with the whole general business of the bank, subject, of course, to all the provisions of the charter and the by-laws; subject, too, always to the inspection and examination of either House of Congress; subject always to regular inquiry and trial, and bound always to communicate to the head of the Treasury Department, on request, statements of its amount of stock, debts due, moneys deposited, notes in circulation, and specie on hand.

'Under these restrictions, the establishment of its offices, and the appointment of its officers; the amount of its discounts, and every thing respecting those discounts; its purchases and sales of exchange, and all other concerns of the institution, are to be conducted and managed by the directors. There is nothing in the charter giving the slightest authority to the Secretary to decide, as between the bank on the one hand, and the Government or the people on the other, whether the general management of the directors is wise or unwise, or whether, in regard to matters not connected with the deposites, it has or has not violated the conditions of its charter. The statement which the bank is bound to make to the Secretary, he may lay before Congress; and he is doubtless, bound by his official duty, to communicate to Congress any other information in his possession, tending, in his judgment, to show that the bank had disregarded its charter, or failed to fulfil all or any of its duties. But here his authority, so far as it regards the general course and operations of the bank, ends. It is then for Congress to act, if it see occasion, and to adopt the regular remedies for any evils which it may suppose to exist. But it transcends the power of Congress itself to pronounce the charter violated, without hearing, without trial, without judgment; far less is any such power of pronouncing final judgment confided to the Secretary. His

power simply is, that in regard to the deposites of the public money, he is to judge, in the first instance, whether just cause has arisen for their removal.

'The Secretary seems to suppose, indeed the very basis of his argument assumes, that the law has confided to him a general guardianship over the public welfare, so far as that welfare is in any way connected with the bank, or liable to be affected by its proceedings; and that he holds the power of removing the deposites as the means, or instrument, by which he is to enforce his own opinions respecting that welfare. The committee do not adopt this opinion. They think that if such had been the design of the law, its provisions would have been very different from those which it does actually contain.

'If such general guardianship had been intended to be conferred on the Secretary, it is reasonable to believe that he would have been vested with powers more suitable to such a high trust. If he had been made, or intended to be made, general inspector, or superintendent, other authority than merely that of removing the deposites would have been given him, for this plain reason, that the Government and the country have interests of much magnitude connected with the bank, besides the deposites of the public moneys in its vaults, and to which interests, if endangered, the removal of the deposites would bring no security.

'The Government is proprietor of seven millions of the stock of the bank; and yet no authority is given to the Secretary to sell this stock under any circumstances whatever, or in any other way to interfere with it.

'The bills and notes of the bank, too, are made receivable in all payments to the United States, until Congress shall otherwise order; and no power is given to the Secretary to prevent their being so received, either during the session of Congress or in its recess, however the credit of these bills and notes might become depreciated.

'How is it possible to conceive that, if Congress intended to give to the Secretary a general right to judge of the operations and proceedings of the bank, and a power, of course, to declare when it had violated its duty, and was no longer trustworthy, it should yet leave him under an absolute obligation to receive its bills and notes in all payments to the Treasury, though they might have lost all credit; and place no means in his hands to execute his high authority of superintendent, except the mere power of removal?

'Wherever it is clear that Congress has given the Secretary a power, it has given him the means of informing his judgment as to the propriety of exercising that power. He has power to remove the deposites; and ample means are afforded him by which he may learn from time to time, whether those deposites are safe. For this purpose, it is expressly made the duty of the bank to furnish him, so often as he shall require, if not oftener than once a week, with statements of the amount of the capital stock of the corporation, of the debts due to it, of the moneys deposited in it, of its notes in circulation, and specie on hand; and he has a right to inspect the general accounts, in the books of the bank, relating to this statement. This statement enables him to judge of the solvency and stability of the bank, and of the safety of the public money deposited in it. Here, then, is a power, and all appropriate means given for the just and enlightened exercise of that power. Confined to the deposites, the power is accompanied with all rational auxiliaries and attendants.

'But for the depreciation of the bills of the bank, should that happen, and for other cases of maladministration, Congress has provided just and appropriate remedies, to be applied by itself or others, in exclusion of the Secretary. For redress of these evils, no power is given to him.

'For the security of the public interest, the law reserves a right to either House of Congress to inquire, at all times, into the proceedings of the bank, and if, on such inquiry, it appears in any respect to have violated its charter, Congress may bring it to trial and judgment. Power is given to the President, also, to institute judicial proceedings, if he shall have reason to believe that any such violation has taken place. But no such power is given to the Secretary.

'The proposition then cannot be maintained, that Congress has relied, for the security of the public interests, and the preservation of the general welfare, so far as it is connected with the bank, on a general discretion reposed in the Secretary, for two reasons: first, because it has not given him the appropriate powers of remedy in the most important instances; and, secondly, because it has, in those instances, either expressly reserved those powers to itself, or expressly conferred them on the President.

'If the Secretary cannot prevent the notes of the bank from being received at the custom houses and the land offices, even after they should be discredited; if he have no power to touch, in any way, the seven millions of stock belonging to the Government; if the power of examination into the proceedings of the bank be given, not to him, but to either House of Congress; if he have no power, but Congress and the

President, each, has power to direct a legal investigation into the conduct of the bank; how can it possibly be maintained that a general inspection and guardianship over the public welfare, so far as it is connected with the bank, is confided to him; and that his authority to remove the deposites was given, not to protect the deposites themselves, and secure their proper use, but to enable him to enforce upon the bank, under penalty of their removal, such a course of management as his sense of the public interest, and of the convenience of the people, may require? Such a construction would give the law a strange and an undeserved character. It would convert the power of removal, intended for remedy and redress, into a mere instrument of punishment; and it would authorize the infliction of that punishment without hearing or trial, in the very cases in which the law yet says that, if violation of duty be charged, the charge shall be heard and tried before judgment is pronounced; and the duty of preferring this charge, and of prosecuting it to judgment, is given, not to the Secretary, but to Congress and to the President.

'The contingent power given to the Secretary to remove the deposites evidently shows that Congress contemplated the possibility of the happening of some sudden evil for which either no other remedy was provided, or none which could be applied with sufficient promptitude; and for which evil removal would be a just and appropriate remedy. The remedy prescribed, then, teaches us the nature of the evils which were apprehended. We can readily understand that threatened danger to the funds was one, and probably the chief of those evils; because change into other hands is the ready and appropriate measure which would rationally suggest itself to all minds as the proper security against such danger; and change is the remedy actually prescribed. Neglect to transfer the deposites from one place to another, as the exigencies of Government might require, and thereby to furnish those facilities of exchange which the charter demands of the bank without commission and without charge, is another evil for which, should it happen, the remedy would naturally be the withdrawing of the funds, and the placing of them in their former custody, so that they could be transferred or exchanged by the Treasury itself.

'But who can see any connexion or relation, such as ordinarily exists between an evil apprehended and a remedy proposed—between such an evil as a supposed over-discount, for instance, by the bank at one time, or an under-discount at another, and the abrupt removal of all the public deposites? And if no one can see the connexion, how can it be supposed that, in giving the power of removal as a remedy, Congress had in view any such evil?

'A question may arise between the Government and the bank respecting the right of the parties to the sum of one hundred and fifty thousand dollars, as in the case of the French bill.

'It is a question on which different opinions may be entertained, and which is, in its nature, fit for judicial decision. Does any man imagine that such a case as this was in the eye of Congress when they granted the power of withdrawing the whole public treasure from the bank? Can it be for one moment maintained, that Congress intended that, in such a case, the Secretary should compel the bank to adopt his own opinion, by the exercise of a power, the very exertion of which deranges the currency, interferes with the industry of the people, and, under some circumstances, would hazard the safety of the whole revenue?

'The committee think it cannot admit of rational doubt, that if Congress had intended to give to the Secretary any power whatever, not directly touching the deposites themselves, not only would it have specially pointed out the cases, but it would also, most assuredly, have provided a remedy more suitable for each case. The nature of the remedy, therefore, which is prescribed, clearly shows the evils intended to be provided against.

'To admit that the Secretary's conduct is subject to no control but his own sense of the general interest and convenience of the people, is to acknowledge the existence, in his hands, of a discretion so broad and unlimited, that its consequences can be no less than to subject, not only all the operations of the bank and its offices, but its powers and capacities, perhaps its very existence, to his individual will. He is of opinion that the law creating it is, in many of its provisions, unconstitutional; he may not unnaturally, therefore, esteem it to be his duty to restrain and obstruct, to the utmost of his power, the operation of those provisions thus deemed by him to be unconstitutional. He is of opinion that the existence of such a powerful moneyed monopoly is dangerous to the liberties of the people. It would result from this that if, in the discharge of his official duty, he is to follow no guide but his own sense of the interest of the people, he might feel bound to counteract the operations of this dangerous monopoly, diminish its circulation, curtail its means, and prejudice its credit. To accomplish these very purposes, and these alone, he might withdraw the

deposites. The power given him by Congress would thus be used to defeat the will of Congress in one of its most important acts, by discrediting, and otherwise injuriously affecting an institution which Congress has seen fit to establish, and which it has declared shall continue, with all its powers, to the expiration of its charter.

'The power conferred on the Secretary is a trust power, and, like other trust powers, in the absence of express terms setting forth the occasions for its exercise, it is to be construed according to the subject and object of the trust. As in other cases of the deposite of moneys in banks, the primary object sought to be accomplished by Congress, by that provision of the charter now under consideration, is the safe keeping of the money. The Secretary's trust, therefore, primarily and principally, respects this safe keeping. But another object is distinctly disclosed in the charter, which object is intimately connected with the fund, and that is, its transfer and exchange from place to place, as the convenience of Government might require. The Secretary's trust, therefore, respects also this other object thus connected with the fund; and when either of these objects requires a removal, a removal becomes a just exercise of his authority. To this extent, none can doubt the existence of his power. If, in truth, the money is believed to be unsafe; if, in truth, the bank will not grant the facilities which it has promised, in consideration of receiving and holding the fund, then, certainly, it ought to be removed. But here the power must stop, or else it is altogether unbounded. Here is a just and reasonable limit, consistent with the character of the power, consistent with the general duties of the Secretary, and consistent with the nature of the remedy provided.

'The charter of the bank is the law: it is the expressed will of the legislature. That will is, that the bank shall exist, with all its powers, to the end of its term. That will, too, as the committee think, is, that the public deposites shall continue in the bank so long as they are safe, and so long as the bank fulfils all its duty in regard to them. The Secretary assumes broader ground. He claims a right to judge of the proceedings of the bank, on all subjects. Admitting the fund to be safe, and admitting that the bank has performed all its duties in regard to it, he claims an authority, nevertheless, to remove the deposites whenever he shall form an opinion, founded on the conduct of the bank in any particular whatever, and however unconnected with the public moneys, that the general interest of the people requires such removal. If, in his opinion, it discounts too little, or discounts too much; if it expands or contracts its circulation too fast or too slow; if its committees are not properly organized; if it claim damages on protested bills, which it ought not to claim; if, in his opinion still, it is guilty of a wrongful meddling in politics, or if it do any thing else not consistent with his sense of the public interest, he has a right to visit it with a withdrawal of the public money from its custody.

'If this claim of power be admitted, it would seem to the committee to be a fair result, that the Secretary has power to withdraw the deposites, for no other reason than that he differs with Congress upon its constitutional authority to create any bank, or upon the constitutionality of this particular bank, or upon the utility of continuing it in the exercise of its chartered powers and privileges, till its term shall expire.

'The committee, therefore, are of opinion that it was not the intention of the Legislature to give to the Secretary of the Treasury a general guardianship over the public interests in all matters connected with the bank; but that his power is a limited one, and is confined to the safety, and the proper management of that portion of the public interest to which it expressly relates; that is to say, to the public moneys in deposite in the bank.'

We would ask our readers to notice Mr. Webster's speech, delivered May 7, 1834, on the subject of the Protest sent by the President to the Senate, stating the rights and duties of the Executive. This singular document roused the spirit of freemen in the Senate; for they thought that its doctrines were in themselves arbitrary, and unconstitutional; directly infringing on the rights of the Senate, and all legislative rights. The Senate took fire at these doctrines, and on the 7th of May, 1834, Mr. Webster made the speech which has been so much extolled by his own countrymen, and by those abroad, who have studied the Constitution of the United States. Mr. Webster examines the claims of power alleged in the Protest, and in pursuance of the examination, makes, among many others, the following remarks:

'Mr. President, the Executive claim of power is exactly this: that the President may keep the money of the public in whatever banks he chooses, on whatever terms he chooses, and to apply the sums which these banks are willing to pay for its use to whatever purposes he chooses. These sums are not to come into the general Treasury. They are to be appropriated before they get there; they are never to be brought under the control of Congress; they are to be paid to officers and agents not known to the law, not nominated to the Senate, and responsible to nobody but the Execu-

tive itself. I ask gentlemen, if all this be lawful? Are they prepared to defend it? Will they stand up and justify it? In my opinion, sir, it is a clear and a most dangerous assumption of power. It is the creation of office, without law; the appointment to office, without consulting the Senate; the establishment of a salary, without law; and the payment of that salary out of a fund which itself is derived from the use of the public treasures. This, sir, is my other reason for concurring in the vote of the 28th of March; and on these grounds I leave the propriety of that vote, so far as I am concerned with it, to be judged of by the country.

'But, sir, the President denies the power of the Senate to pass any such resolution, on any ground whatever. Suppose the declaration contained in the resolution to be true; suppose the President had, in fact, assumed powers not granted to him; does the Senate possess the right to declare its opinion, affirming this fact, or does it not? I maintain the Senate does possess such a power; the President denies it.

'Mr. President, we need not look far, nor search deep, for the foundation of this right in the Senate. It is clearly visible, and close at hand. In the first place, it is the right of self-defence. In the second place, it is a right, founded on the duty of representative bodies, in a free government, to defend the public liberty against encroachment. We must presume that the Senate honestly entertained the opinion expressed in the resolution of the 28th of March; and entertaining that opinion, its right to express is but the necessary consequence of its right to defend its own constitutional authority, as one branch of the Government. This is its clear right, and this, too, is its imperative duty.

'If one, or both the other branches of the Government happen to do that which appears to us inconsistent with the constitutional rights of the Senate, will any one say that the Senate is yet bound to be passive, and to be silent; to do nothing, and to say nothing? Or if one branch appears to encroach on the rights of the other two, have these two no power of remonstrance, complaint, nor resistance? Sir, the question may be put in a still more striking form. Has the Senate a right to have an opinion in a case of this kind? If it may have an opinion, how is that opinion to be ascertained but by resolution and vote? The objection must go the whole length; it must maintain that the Senate has not only no right to express opinions, but no right to form opinions on the conduct of the Executive Government, though in matters intimately affecting the powers and duties of the Senate itself. It is not possible, sir, that such a doctrine can be maintained for a single moment. All political bodies resist what they deem encroachments, by resolutions expressive of their sentiments, and their purpose to resist such encroachments. When such a resolution is presented for their consideration, the question is, whether it be true; not whether the body has authority to pass it, admitting it to be true. The Senate, like other public bodies, is perfectly justifiable in defending, in this mode, either its Legislative or Executive authority. The usages of Parliament, the practice in our State Legislatures and Assemblies, both before and since the Revolution, and precedents in the Senate itself fully maintain this right. The case of the Panama mission is in point. In that case, Mr. Branch, from North Carolina, introduced a resolution, which, after reciting that the President, in his annual message, and in his communication to the Senate, had asserted that he possessed an authority to make certain appointments, *although the appointments had not been made*, went on to declare that "*a silent acquiescence, on the part of this body, may, at some future time, be drawn into dangerous precedent;*" and to resolve, therefore, that the President does not possess the right or power said to be claimed by him. This resolution was discussed, and finally laid on the table. But the question discussed was, whether the resolution was correct, in fact and principle; not whether the Senate had any right to pass such a resolution. So far as I remember, no one pretended that, if the President had exceeded his authority, the Senate might not so declare by resolution. No one ventured to contend that, whether the rights of the Senate were invaded or not, the Senate must hold its peace.

'The protest labors strenuously to show that the Senate adopted the resolution of the 28th March, under its *judicial* authority. The reason of this attempt is obvious enough. If the Senate, in its judicial character, has been trying the President, then he has not had a regular and formal trial; and, on that ground, it is hoped the public sympathy may be moved. But the Senate has acted not in its judicial, but in its legislative capacity. As a legislative body, it has defended its own just authority, and the authority of the other branch of the Legislature. Whatever attacks our own rights and privileges, or whatever encroaches on the power of both Houses, we may oppose and resist, by declaration, resolution, or other similar proceeding. If we look to the books of precedents, if we examine the journals of legislative bodies, we find, every where, instances of such proceedings.

'It is to be observed, sir, that the protest imposes silence on the House of Representatives as well as on the Senate. It declares that no power is conferred on either

branch of the Legislature, to consider or decide upon official acts of the Executive, for the purpose of censure, and without a view to legislation or impeachment. This, I think, sir, is pretty high-toned pretension. According to this doctrine, neither House can assert its own rights, however the Executive might assail them; neither House could point out the danger to the People, however fast Executive encroachment might be extending itself, or whatever danger it might threaten to the public liberties. If the two Houses of Congress may not express an opinion of Executive conduct by resolution, there is the same reason why they should not express it in any other form, or by any other mode of proceeding. Indeed, the protest limits both Houses, expressly to the case of impeachment. If the House of Representatives are not about to impeach the President, they have nothing to say of his measures, or of his conduct; and unless the Senate are engaged in trying an impeachment, their mouths, too, are stopped. It is the practice of the Executive to send us an annual message, in which he rehearses the general proceedings of the Executive for the past year. This message we refer to our committees for consideration. But, according to the doctrine of the protest, they can express no opinion upon any Executive proceeding, upon which it gives information. Suppose the President had told us, in his last annual message, what he had previously told us in his cabinet paper, that the removal of the deposites was *his* act, done on *his* responsibility; and that the Secretary of the Treasury had exercised no discretion, formed no judgment, presumed to have no opinion whatever on the subject. This part of the message would have been referred to the Committee on Finance; but what could they say? They think it shows a plain violation of the Constitution and the laws; but the President is not impeached; therefore, they can express no censure. They think it a direct invasion of legislative power, but they must not say so. They may, indeed, commend, if they can. The grateful business of praise is lawful to them; but if, instead of commendation and applause, they find cause for disapprobation, censure, or alarm, the protest enjoins upon them absolute silence.

'Formerly, sir, it was a practice for the President to meet both Houses, at the opening of the session, and deliver a speech, as is still the usage in some of the State Legislatures. To this speech there was an answer from each House, and those answers expressed, freely, the sentiments of the House upon all the merits and and faults of the Administration. The discussion of the topics contained in the speech, and the debate on the answers, usually drew out the whole force of parties, and lasted sometimes a week. President Washington's conduct, in every year of his administration, was thus freely and publicly canvassed. He did not complain of it; he did not doubt that both Houses had a perfect right to comment, with the utmost latitude, consistent with decorum upon all his measures. Answers, or amendments to answers, were not unfrequently proposed, very hostile to his own course of public policy, if not sometimes bordering on disrespect. And when they did express respect and regard, there were votes ready to be recorded against the expression of those sentiments. To all this, President Washington took no exception; for he well knew that these, and similar proceedings, belonged to the power of popular bodies. But if the President were now to meet us with a speech, and should inform us of measures adopted by himself in the recess, which should appear to us the most plain, palpable, and dangerous violations of the Constitution, we must, nevertheless, either keep respectful silence, or fill our answer merely with courtly phrases of approbation.

'Sir, I know not who wrote this protest, but I confess I am truly astonished, as well at the want of knowledge which it displays of constitutional law, as at the high and dangerous pretensions which it puts forth. Neither branch of the Legislature can express censure upon the President's conduct! Suppose, sir, that we should see him enlisting troops, and raising an army, can we say nothing, and do nothing? Suppose he were to declare war against a foreign Power, and put the army and fleet in action, are we still to be silent? Suppose we should see him "*borrowing money on the credit of the United States;*" are we yet to wait for impeachment? Indeed, sir, in regard to this borrowing money, on the credit of the United States, I wish to call the attention of the Senate not only to what might happen, but to what has actually happened. We are informed that the Post Office Department, a Department over which the President claims the same control as over the rest, *has actually borrowed near half a million of money on the credit of the United States.*

'Mr. President, the first power granted to Congress by the Constitution is the power to lay taxes; the second the power to borrow money on the credit of the United States. Now, sir, where does the Executive find its authority, in or through any Department, to borrow money without authority of Congress? This proceeding appears to me wholly illegal, and reprehensible in a very high degree. It may be said that it is not true that this money is borrowed on the credit of the United States, but that it is borrowed on the credit of the Post Office Department. But that would be mere

evasion. The Department is but a name. It is an office, and nothing more. The banks have not lent this money to any officer. If Congress should abolish the whole Department to-morrow, would the bank not expect the United States to replace this borrowed money? The money, then, is borrowed on the credit of the United States; an act which Congress alone is competent to authorize. If the Post Office Department may borrow money, so may the War Department, and the Navy Department. If half a million may be borrowed, ten millions may be borrowed. What, then, if this transaction shall be justified, is to hinder the Executive from borrowing money, to maintain fleets and armies, or for any other purpose, at his pleasure, without any authority of law? Yet, even this, according to the doctrine of the protest, we have no right to complain of. We have no right to declare that an Executive Department has violated the Constitution and broken the law, by borrowing money on the credit of the United States. Nor could we make a similar declaration if we were to see the Executive, by means of this borrowed money, enlisting armies, and equipping fleets. And yet, sir, the President has found no difficulty heretofore, in expressing his opinions, *in a paper not called for by the exercise of any official duty*, upon the conduct and proceedings of the two Houses of Congress. At the commencement of this session he sent us a message commenting on the land bill which the two Houses passed at the end of the last session. That bill he had not approved, nor had he returned it with objections. Congress was dissolved, and the bill, therefore was completely dead, and could not be revived. No communication from him could have the least possible effect as an official act. Yet he saw fit to send a message on the subject, and in that message he very freely declares his opinion, that the bill which had passed both Houses *began with an entire subversion of every one of the compacts by which the United States became possessed of their western domain*; that one of its provisions *was in direct and undisguised violation of the pledge given by Congress to the States*; that the Constitution provides that these compacts shall be untouched by the legislative power, which can only make needful rules and regulations; and that all beyond that is *an assumption of undelegated* power.

'These are the terms in which the President speaks of an act of the two Houses; in no official paper, in no communication which it was necessary for him to make to them; but in a message, adopted only as a mode through which to make public these opinions: after this it would seem too late to enjoin on the Houses of Congress a total forbearance from all comment on the measures of the Executive.

'Not only is it the right of both Houses, or of either, to resist by vote, declaration, or resolution, whatever it may deem an encroachment of Executive power, but it is also undoubtedly the right of either House to oppose in like manner any encroachment by the other. The two Houses have each its own appropriate powers and authorities which it is bound to preserve. They have, too, different constituents. The members of the Senate are representatives of States; and it is in the Senate alone that the four and twenty States as political bodies, have a direct influence in the legislative and executive powers of this government. He is a strange advocate of State rights, who maintains that this body, thus representing the States, and thus being the strictly federal branch of the Legislature, may not assert and maintain all and singular its own powers and privileges, against either or both of the other branches.

'If any thing be done or threatened, derogatory to the rights of the States, as secured by the organization of the Senate, may we not lift up our voices against it? Suppose the House of Representatives should vote that the Senate ought not to propose amendments to revenue bills; would it be the duty of the Senate to take no notice of such proceeding? Or, if we were to see the President issuing commissions to office to persons who had never been nominated to the Senate, are we not to remonstrate?

'Sir, there is no end of cases, no end of illustrations. The doctrines of the protest, in this respect, cannot stand the slightest scrutiny; they are blown away by the first breath of discussion.'

'And yet, sir, it is easy to perceive why this right of declaring its sentiments, respecting the conduct of the Executive, is denied to either House, in its legislative capacity. It is merely that the Senate might be presented in the odious light of *trying* the President, judicially, without regular accusation or hearing. The protest declares that the President is *charged with a crime, and without hearing or trial, found guilty and condemned*. This is evidently an attempt to appeal to popular feeling, and to represent the President as unjustly treated and unfairly tried. Sir, it is a false appeal. The President has not been tried at all; he has not been accused; he has not been charged with crime; he has not been condemned. Accusation, trial, and sentence, are terms belonging to judicial proceedings. But the Senate has been engaged in no such proceeding. The resolution of the 28th of March was not an exercise of judicial power, either in form, in substance, or in intent. Every body knows that the Senate can exercise no judicial power until articles of impeachment are brought before it. It is then

to proceed, by accusation and answer, hearing, trial, and judgment. But there has been no impeachment, no answer, no hearing, no judgment. All that the Senate did was to pass a resolution, in legislative form, declaring its opinion of certain acts of the Executive. This resolution imputed no crime, it charged no corrupt motive; it proposed no punishment, it was directed, not against the President, personally, but against the act; and that act it declared to be, in its judgment, an assumption of authority not warranted by the Constitution.

'It is in vain that the Protest attempts to shift the resolution on the judicial character of the Senate. The case is too plain for such an argument to be plausible. But in order to lay some foundation for it, the Protest, as I have already said, contends that neither the Senate nor the House of Representatives can express its opinions on the conduct of the President, except in some form connected with impeachment; so that, if the power of impeachment did not exist, these two Houses, though they be representative bodies, though one of them be filled by the immediate representatives of the people, though they be constituted like other popular and representative bodies, could not utter a syllable, although they saw the Executive either trampling on their own rights and privileges, or grasping at absolute authority and dominion over the liberties of the country! Sir, I hardly know how to speak of such claims of impunity for Executive encroachment. I am amazed that any American citizen should draw up a paper containing such lofty pretensions; pretensions, which would have been met with scorn in England, at any time since the Revolution of 1688. A man who should stand up, in either House of the British Parliament, to maintain that the House could not, by vote or resolution, maintain its own rights and privileges, would make even the tory benches hang their heads for very shame. There was, indeed, a time when such proceedings were not allowed. Some of the kings of the Stuart race would not tolerate them. A signal instance of royal displeasure with the proceedings of Parliament, occurred in the latter part of the reign of James the First. The House of Commons had spoken, on some occasion, "*of its own undoubted rights and priviledges.*" The King thereupon sent them a letter, declaring that *he would not allow that they had any undoubted rights; but that what they enjoyed they might still hold by his own royal grace and permission.* Sir Edward Coke and Mr. Granville were not satisfied with this title to their privileges; and, under their lead, the House entered on its journals a resolution, asserting its privileges, *as its own undoubted right*, and manifesting a determination to maintain them as such. This, says the historian, so enraged his majesty, that he sent for the journal, had it brought into the council, and there, in the presence of his lords and great officers of state, tore out the offensive resolution, with his own royal hand. He then dissolved Parliament, and sent its most refractory members to the Tower. I have no fear, certainly, sir, that this English example will be followed, on this occasion, to its full extent; nor would I insinuate that any thing outrageous has been thought of, or intended, except outrageous pretensions; but such pretensions I must impute to the author of this protest, whoever that author is.

'When this and the other House shall lose the freedom of speech and debate; when they shall surrender the rights of publicly and freely canvassing all important measures of the executive; when they shall not be allowed to maintain their own authority and their own privileges by vote, declaration, or resolution, they will then be no longer free representatives of a free people, but slaves themselves, and fit instruments to make slaves of others.

'The Protest, Mr. President, concedes what it doubtless regards as a liberal right of discussion to the people themselves. But its language, even in acknowledging this right of the *people* to discuss the conduct of their servants, is qualified and peculiar. The free people of the United States, it declares, "have an undoubted right to discuss the official conduct of the President, in such language and form as they may think proper, *subject only to the restraint of truth and justice.*" But then, who is to be judge of this truth and justice? Are the people to judge for themselves, or are others to judge for them? The protest is here speaking of *political* rights, and not moral rights; and if restraints are imposed on *political* rights it must follow, of course, that others are to decide, whenever the case arises, whether these restraints have been violated. It is strange that the writer of the Protest did not perceive that, by using this language, he was pushing the President into a direct avowal of the doctrines of 1798. The text of the Protest, and the text of the obnoxious act of that year, are nearly identical.

'But sir, if the people have a right to discuss the official conduct of the Executive, so have their representatives. We have been taught to regard a representative of the people as a sentinel on the watch-tower of liberty. Is he to be blind, though visible danger approaches? Is he to be deaf, though sounds of peril fill the air? Is he to be dumb, while a thousand duties impel him to raise the cry of alarm? Is he not, rather, to catch the lowest whisper which breathes intention or purpose of encroachment on the public liberties, and to give his voice breath and utterance at the first

appearance of danger? Is not his eye to traverse the whole horizon, with the keen and eager vision of an unhooded hawk, detecting, through all disguises, every enemy advancing, in any form, towards the citadel which he guards? Sir, this watchfulness for public liberty, this duty of foreseeing danger and proclaiming it, this promptitude and boldness in resisting attacks on the Constitution from any quarter, this defence of established landmarks, this fearful resistance of whatever would transcend or remove them, all belong to the representative character, are interwoven with its very nature, and of which it cannot be deprived, without converting an active, intelligent, faithful agent of the people, into an unresisting and passive instrument of power. A representative body which gives up these rights and duties, gives itself up. It is a representative body no longer. It has broken the tie between itself and its constituents, and henceforth is fit only to be regarded as an inert self-sacrificed mass, from which all appropriate principle of vitality has departed for ever.

'I have thus endeavored to vindicate the right of the Senate to pass the resolution of the 28th of March, notwithstanding the denial of that right in the Protest.

'But there are other sentiments and opinions expressed in the Protest of the very highest importance, and which demand nothing less than our utmost attention.

'The first object of a free people is the preservation of their liberty; and liberty is only to be preserved by maintaining constitutional restraints and just divisions of political power. Nothing is more deceptive, or more dangerous, than the pretence of a desire to simplify government. The simplest governments are despotisms; the next simplest, limited monarchies; but all republics, all governments of law, must impose numerous limitations and qualifications of authority, and give many positive and many qualified rights. In other words, they must be subject to rule and regulation. This is the very essence of free political institutions. The spirit of liberty is indeed a bold and fearless spirit; but it is also a sharpsighted spirit: it is a cautious, sagacious, discriminating, far-seeing, intelligence; it is jealous of encroachment, jealous of power, jealous of man. It demands checks, it seeks for guards, it insists on securities; it entrenches itself behind strong defences, and fortifies with all possible care, against the assaults of ambition and passion. It does not trust the amiable weaknesses of human nature, and therefore it will not permit power to overstep its prescribed limits, though benevolence, good intent, and patriotic purpose, come along with it. Neither does it satisfy itself with flashy and temporary resistance to illegal authority. Far otherwise. It seeks for duration and permanence. It looks before and after, and building on the experience of ages which are past, it labors diligently for the benefit of ages to come; this is the nature of constitutional liberty; and this is *our* liberty, if we will rightly understand and preserve it. Every free government is necessarily complicated, because all such governments establish restraints, as well on the power of government itself as on that of individuals. If we will abolish the distinction of branches, and have but one branch; if we will abolish jury trials, and leave all to the judge; if we will then ordain that the legislator shall himself be that judge; and if we will place the executive power in the same hands—we may readily simplify government. We may easily bring it to the simplest of all possible forms, a pure despotism. But a separation of departments so far as practicable, and the preservation of clear lines of division between them, is the fundamental idea in the creation of all our constitutions; and doubtless the continuance of regulated liberty depends on maintaining these boundaries.

'In the progress, sir, of the Government of the United States, we seem exposed to two classes of dangers or disturbances; one external, the other internal. It may happen that collisions arise between this Government and the Governments of the States. That case belongs to the first class. A memorable instance of this kind existed last year. It was my conscientious opinion, on that occasion, that the authority claimed by an individual State was subversive of the just powers of this Government, and, indeed incompatible with its existence. I gave a hearty co-operation, therefore, to measures which the crisis seemed to require. We have now before us what appears, to my judgment, to be an instance of the latter kind. A contest has arisen between different branches of the same Government, interrupting their harmony, and threatening to disturb their balance. It is of the highest importance, therefore, to examine the question carefully, and to decide it justly.

'The separation of the powers of Government into three departments, though all our constitutions profess to be founded on it, has, nevertheless, never been perfectly established in any Government of the world, and perhaps never can be. The general principle is of inestimable value, and the leading lines of distinction sufficiently plain; yet there are powers of so undecided a character, that they do not seem necessarily to range themselves under either head. And most of our constitutions, too, having laid down the general principle, immediately create exceptions. There do not exist in the general science of government, or the received maxims of political law, such pre-

cise definitions, as unable us always to say, of a given power, whether it be legislative, executive, or judicial. And this is one reason, doubtless, why the Constitution, in conferring power on all the departments, proceeds not by general definition, but by specific enumeration. And again, it grants a power in general terms, but yet, in the same, or some other article or section, imposes a limitation or qualification on the grant; and the grant and the limitation must, of course, be construed together. Thus the Constitution says, that all legislative power, therein granted, shall be vested in Congress, which Congress shall consist of a Senate and House of Representatives; and yet, in another article, it gives to the President a qualified negative over all acts of Congress. So the Constitution declares that the judicial power shall be vested in one Supreme Court, and such inferior Courts as Congress may establish. It gives, nevertheless, in another provision, judicial power to the Senate; and, in like manner, though it declares that the executive power shall be vested in the President, using in the immediate context, no words of limitation, yet it elsewhere subjects the treaty-making power, and the appointing power, to the concurrence of the Senate. The irresistible inference from these considerations, is, that the mere nomination of a department, as one of the three great and commonly acknowledged departments of Government, does not confer on that department any power at all. Notwithstanding the departments are called the legislative, the executive, and the judicial, we must yet look into the provisions of the Constitution itself, in order to learn, first, what powers the Constitution regards as legislative, executive, and judicial, and, in the next place, what portions or quantities of these powers, are conferred on the respective departments; because no one will contend that *all* legislative power belongs to Congress, *all* executive power to the President, or *all* judicial power to the Courts of the United States.

'The first three articles of the Constitution, as all known, are employed in prescribing the organization, and enumerating the powers, of the three departments. The first article treats of the Legislature, and its first section is: "All legislative powers, *herein granted*, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

'The second article treats of the Executive power, and its first section declares that "the executive power shall be vested in a President of the United States of America."

'The third article treats of the judicial power, and its first section declares that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may, from time to time, ordain and establish."

'It is too plain to be doubted, I think, sir, that these descriptions of the persons or officers, in whom the Executive and the Judicial powers are to be vested, no more defines the extent of the grant of those powers, than the words quoted from the first article describe the extent of the legislative grant to Congress. All these several titles, heads of articles, or introductory clauses, with the general declarations which they contain, serve to designate the departments, and to mark the general distribution of powers; but in all the departments, in the executive and judicial as well as the legislative, it would be unsafe to contend for any specific power under such clauses.

'If we look into the State Constitutions, we shall find the line of distinction between the departments still less perfectly drawn, although the general principle of the distinction is laid down in most of them, and, in some of them, in very positive and emphatic terms. In some of these States, notwithstanding the principle of distribution is adopted and sanctioned, the Legislature appoints the Judges; and in others it appoints both the Governor and the Judges; and in others, again, it appoints not only the judges, but all other officers.

'The inferences which, I think, follow from these views of the subject, are two: First, that the denomination of a department does not fix the limits of the powers conferred on it, nor even their exact nature; and, second, (which indeed follows from the first,) that, in our American Governments, the Chief Executive Magistrate does not necessarily, and by force of his general character of Supreme Executive, possess the appointing power. He may have it, or he may not, according to the particular provisions applicable to each case, in the respective constitutions.

'The President appears to have taken a different view of this subject. He seems to regard the appointing power as originally and inherently in the Executive, and as remaining absolute in his hand, except so far as the Constitution restrains it. This I do not agree to, and shall have occasion hereafter to examine the question further. I have intended, thus far, only to insist on the high and indispensable duty of maintaining the division of power, *as the Constitution has marked that division out*; and to oppose claims of authority not founded on express grants or necessary implication, but sustained merely by argument, or inference, from names or denominations given to departments.

'Mr. President, the resolutions now before us declare, that the Protest asserts powers, as belonging to the President, inconsistent with the authority of the two Houses of Congress, and inconsistent with the Constitution; and that the Protest itself is a breach of privilege. I believe all this to be true.

'The doctrines of the Protest are inconsistent with the authority of the two Houses, because, in my judgment, they deny the just extent of the law-making power. I take the Protest as it was sent to us, without inquiring how far the subsequent message has modified or explained it. It is singular, indeed, that a paper so long in preparation, so elaborate in composition, and which is put forth for so high a purpose as the Protest avows, should not be able to stand an hour's discussion before it became evident that it was indispensably necessary to alter or explain its contents. Explained, or unexplained, the paper contains sentiments which justify us, as I think, in adopting these resolutions.

In the first place, I think the Protest a clear breach of privilege. It is a reproof or rebuke, of the Senate, in language hardly respectful for the exercise of a power clearly belonging to it as a legislative body. It entirely misrepresents the proceedings of the Senate. I find this paragraph in it among others of a similar tone and character: "A majority of the Senate, whose interference with the preliminary question has, for the best of all reasons, been studiously excluded, anticipate the action of the House of Representatives, assume not only the function which belongs exclusively to that body, but convert themselves into accusers, witnesses, counsel and judges, and prejudge the whole case. Thus presenting the appalling spectacle, in a free State, of judges going through a labored preparation for an impartial hearing and decision, by a previous *ex parte* investigation and sentence against the supposed offender."

'Now sir, this paragraph, I am bound to say, is a total misrepresentation of the proceedings of the Senate. A majority of the Senate have not anticipated the House of Representatives; they have not assumed the functions of that body; they have not converted themselves into accusers, witnesses, counsel or judges. They have made no *ex parte* investigation; they have given no sentence. This paragraph is an elaborate perversion of the whole proceedings of the Senate. A protest, sent to us by the President, against votes which the Senate has an unquestionable right to pass, and containing too, such a misrepresentation of these votes as this paragraph manifests, is a breach of privilege.

'But there is another breach of privilege. The President interferes between the members of the Senate and their constituents, and charges them with acting contrary to the will of those constituents. He says it is his right and duty to look to the journals of the Senate, to ascertain who voted for the resolution of the 28th of March, and then to show that individual Senators have, by their votes on that resolution, disobeyed the instructions, or violated the known will of the Legislatures who appointed them. All this he claims, as his right and his duty. And where does he find any such right, or any such duty? What right has he to send a message to either House of Congress, telling its members that they disobey the will of their constituents? Has any English sovereign, since Cromwell's time, dared to send such a message to Parliament. Sir, If he can tell us that some of us disobey our constituents, he can tell us that all do so; and, if we consent to receive this language from him, there is but one remaining step; and that is, that since we thus disobey the will of our constituents, he should disperse us and send us home. In my opinion, the first step in this process is as distinct a breach of privilege as the last. If Cromwell's examples shall be followed out, it will not be more clear than it is now, that the privileges of the Senate have been violated. There is yet something, sir, which surpasses all this; and that is, that, after this direct interference, after pointing out those Senators whom he would represent as having disobeyed the known will of their constituents, *he disclaims all design of interfering at all!* Sir, who could be the writer of a message, which, in the first place, makes the President assert such monstrous pretensions, and in the next line, affronts the understanding of the Senate by disavowing all right to do that very thing which he is doing? If there be any thing, sir, in this message, more likely than the rest of it to move one from his equanimity, it is this disclaimer of all design to interfere with the responsibility of members of the Senate to their constituents, after such interference had already been made, in the same paper, in the most objectionable and offensive form. If it were not for the purpose of telling these Senators that they disobeyed the will of the Legislatures of the States they represent, *for what purpose was it* that the Protest has pointed out the four Senators, and paraded against them the sentiments of their Legislatures? There can be no other purpose. The Protest says, indeed, that "these facts belong to the history of these proceedings? To the history of what proceedings? To any proceeding to which the President was party? To any proceeding to which the Senate was party? Have they any thing to do with the resolutions of the 28th of March? But it adds, that these facts *are important to*

the just developement of the principles and interests involved in the proceedings. All this might be said of any other facts. It is mere words. To what principles, to what interests, are these facts important? They cannot be important but in one point of view; and that is, as proof, or evidence, that the Senators have disobeyed instructions, or acted against the known will of their constituents, in disapproving the President's conduct. They have not the slightest bearing in any other way. They do not make the resolution of the Senate more or less true, nor its right to pass it more or less clear. Sir, these proceedings of the Legislatures were introduced into this Protest for the very purpose, and no other, of showing that members of the Senate have acted contrary to the will of their constituents. Every man sees and knows this to have been the sole design; and any other pretence is a mockery to our understandings. And this purpose is, in my opinion, an unlawful purpose; it is an unjustifiable intervention between us and our constituents; and is, therefore, a manifest and flagrant breach of privilege.

'In the next place, the assertions of the Protest are inconsistent with the just authority of Congress, because they claim for the President a power, independent of Congress, to possess the custody and control of the public treasures. Let this point be accurately examined; and, in order to avoid mistake, I will read the precise words of the Protest:

"The custody of the public property, under such regulations as may be prescribed by legislative authority, has always been considered an appropriate function of the executive department in this and all other governments. In accordance with this principle, every species of property belonging to the United States, excepting that which is in the use of the several co-ordinate departments of the Government, as means to aid them in performing their appropriate functions, is in charge of officers appointed by the President, whether it be of lands, or buildings, or merchandise, or provisions, or clothing, or arms and munitions of war. The superintendents and keepers of the whole are appointed by the President and removable at his will.

"Public money is but a species of public property. It cannot be raised by taxation or customs, nor brought into the treasury in any other way except by law: but whenever, or howsoever obtained, its custody always has been and always must be, unless the constitution be changed, intrusted to the executive department. No officer can be created by Congress, for the purpose of taking charge of it, whose appointment would not, by the constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his duties."

'And in another place, it declares that "Congress cannot, therefore, take out of the hands of the executive department the custody of the public property or money, without an assumption of executive power, and a subversion of the first principles of the constitution." These, sir, are propositions which cannot receive too much attention. They affirm, that the custody of the public money constitutionally and necessarily belongs to the Executive; and that, until the Constitution is changed, Congress cannot take it out of his hands, nor make any provision for its custody, except by such superintendents and keepers as are appointed by the President, and removable at his will. If these assertions be correct, we have, indeed, a singular Constitution for a republican government; for we give the Executive the control, the custody, and the possession, of the public treasury, by original constitutional provision; and when Congress appropriates, it appropriates only what is already in the President's hands.

'Sir, I hold these propositions to be sound in neither branch. I maintain that the custody of the public money does not necessarily, belong to the Executive, under this government; and I hold, that Congress may so dispose of it, that it shall be under the superintendence of keepers not appointed by the President, nor removable at his will. I think it competent for Congress to declare, as Congress did declare in the Bank charter, that the public deposites should be made in the Bank. When in the Bank, they were not kept by persons appointed by the President, or removable at his will. He could not change that custody, nor could it be changed at all, but according to the provisions made in the law itself. There was, indeed, a provision in the law authorizing the *Secretary* to change the custody. But, suppose there had been no such provision; suppose the contingent power had not been given to the Secretary, would it not have been a lawful enactment? Might not the law have provided that the public moneys should remain in the Bank, until Congress itself should otherwise order, leaving no power of removal any where else? And if such provision had been made, what power, or custody, or control, would the President have possessed over them? Clearly, none at all. The act of May, 1800, directed custom-house bonds in places where the Bank, which was then in existence, was situated, or in which it had branches, to be deposited in the Bank or its branches, for collection, *without the reservation of any power of removal to the Secretary or any body else.*— Now, sir, this was an unconstitutional law, if the Protest, in the part now under con-

sideration be correct; because it placed the public money in a custody beyond the control of the President, and in hands of keepers not appointed by him, nor removable at his pleasure. One may readily discern, sir, the process of reasoning by which the author of the Protest brought himself to the conclusion that Congress could not place the public moneys beyond the President's control. It is all founded on the power of appointment, and the power of removal. These powers, it is supposed, must give the President complete control and authority over those who actually hold the money, and, therefore, must necessarily subject its custody, at all times, to his own individual will. This is the argument.

'It is true, that the appointment of all public officers, with some exceptions, is, by the constitution, given to the President, with the consent of the Senate; and as, in most cases, public property must be held by some officer, its keepers will generally be persons so appointed. But this is only the common, not a necessary consequence, of giving the appointing power to the President and Senate. Congress may still, if it shall see fit, place the public treasure in the hand of no officer appointed by the President, or removable by him, but in hands quite beyond his control. Subject to one contingency only, it did this very thing by the charter of the present Bank; and it did the same thing absolutely, and subject to no contingency, by the law of 1800. The Protest, in the first place, seizes on the fact that all officers must be appointed by the President, or on his nomination; it then assumes the next step, that all officers are, and *must be*, removable at his pleasure; and then, insisting that public money, like other public property, must be kept by *some public officer*, it thus arrives at the conclusion that it *must* always be in the hands of those who are appointed by the President, and who are removable at his pleasure. And it is very clear that the Protest means to maintain that the *tenure of office cannot be so regulated by law as that public officers shall not be removable at the pleasure of the President.*

* * * * * * * *

'But, sir, there is, in this paper, something even yet more strange than these extraordinary claims of power. There is, sir, a strong disposition, running throguh the whole Protest, to represent the Executive Department of this Government, as the peculiar protector of the public liberty, the chief security on which the people are to rely against the encroachment of other branches of the Government. Nothing can be more manifest than this purpose. To this end the protest spreads out the President's official oath, reciting all its words in a formal quotation; and yet the oath of members of Congress is exactly equivalent. The President is to swear that he will "preserve, protect, and defend the constitution;" and members of Congress are to swear that they will "support the constitution." There are more words in one oath than the other, but the sense is precisely the same. Why, then, this reference to his official oath, and this ostentatious quotation of it? Would the writer of the Protest argue that the oath itself is any grant of power; or that, because the President is to "preserve, protect, and defend the constitution," he is, therefore, to use what means he pleases, or any means, for such preservation, protection, and defence, except those which the constitution and laws have specially given him? Such an argument would be preposterous; but if the oath be not cited for this preposterous purpose, with what design is it thus displayed on the face of the Protest, unless it be to support the general idea that the maintenance of the constitution and the preservation of the public liberties are especially confided to the safe discretion, the sure moderation, the paternal guardianship, of executive power? The oath of the President contains three words, all of equal import; that is, that he will preserve, protect, and defend the constitution. The oath of members of Congress is expressed in shorter phrase; it is, that they will support the constitution. If there be any difference in the meaning of the two oaths, I cannot discern it; and yet the Protest solemnly and formally argues thus: "The duty of defending, so far as in him lies, the integrity of the constitution, would, indeed, have resulted from the very nature of his office; but by thus expressing it in the official oath or affirmation, which, in this respect differs from that of every other functionary, the founders of our republic have attested their sense of its importance, and have given to it a peculiar solemnity and force."

* * * * * * * * *

Mr. Webster's observations on the necessity of watching the encroachments of Executive power are admirable.

'Through all this history of the contest for liberty, executive power has been regarded as a lion which must be caged. So far from being the object of enlightened popular trust, so far from being considered the natural protector of popular right, it has been dreaded, uniformly, always dreaded, as the great source of its danger.

'And now, sir, who is he, so ignorant of the history of liberty, at home and abroad; who is he, yet dwelling, in his contemplations, among the principles and dogmas of

the middle ages; who is he, from whose bosom all original infusion of American spirit has become so entirely evaporated and exhaled, as that he shall put into the mouth of the President of the United States the doctrine that the defence of liberty *naturally results* to executive power, and its peculiar duty? Who is he, that, generous and confiding towards power where it is most dangerous, and jealous only of those who can restrain it; who is he, that, reversing the order of the State, and upheaving the base, would poise the political pyramid of the political system upon its apex; who is he, that overlooking with contempt the guardianship of the representatives of the people, and with equal contempt, the higher guardianship of the people themselves; who is he, that declares to us, through the President's lips, that the security for freedom rests in executive authority? Who is he that belies the blood and libels the fame of his own ancestors, by declaring that *they*, with solemnity of form, and force of manner, have invoked the executive power to come to the protection of liberty. Who is he that thus charges them with the insanity, or recklessness, of putting the lamb beneath the lion's paw? No, sir. Our security is in our watchfulness of executive power. It was the constitution of this department, which was infinitely the most difficult part in the great work of creating our present Government. To give to the executive department such power as should make it useful, and yet not such as should render it dangerous; to make it efficient, independent and strong, and yet to prevent it from sweeping away every thing by its union of military and civil authority, by the influence of patronage, and office, and favor; this, indeed, was difficult. They who had the work to do, saw the difficulty, and we see it; and if we would maintain our system, we shall act wisely to that end, by preserving every restraint and every guard which the Constitution has provided. And when we, and those who come after us, have done all that we can do, and all that they can do, it will be well for us, and for them, if some popular Executive, by the power of patronage and party, and the power, too, of that very popularity, shall not hereafter prove an over-match for all other branches of the Government.

'I do not wish, sir, to impair the power of the President, as it stands written down in the Constitution, and as great and good men have hitherto exercised it. In this, as in other respects, I am for the Constitution as it is. But I will not acquiesce in the reversal of all just ideas of Government; I will not degrade the character of popular representation; I will not blindly confide, where all experience admonishes me to be jealous; I will not trust executive power, vested in the hands of a single magistrate, to keep the vigils of liberty.

'Having claimed for the Executive the especial guardianship of the Constitution, the protest proceeds to present a summary view of the powers which are supposed to be conferred on the Executive by that instrument. And it is to this part of the message, sir, that I would, more than to all others, call the particular attention of the Senate. I confess, that it was only upon careful re-perusal of the paper, that I perceived the extent to which its assertions of power reach. I do not speak, now, of the President's claims of powers, as opposed to legislative authority, but of his opinions as to his own authority, duty and responsibility, as connected with all other officers under the Government. He is of opinion that the whole executive power is vested in him, and that he is responsible for its entire exercise; that among the duties imposed on him, is that of "taking care that the laws be faithfully executed;" and that "being thus made responsible for the entire action of the executive department, it was but reasonable that the power of appointing, overseeing, and controlling those who execute the laws—a power in its nature executive—should remain in his hands. It is, therefore, not only his right, but the Constitution makes it his duty to "nominate, and by and with the advice and consent of the Senate appoint," all "officers of the United States whose appointments are not in the Constitution otherwise provided for," with a proviso that the appointment of inferior officers may be vested in the President alone, in the courts of justice, or in the heads of departments.

'The first proposition, then, which the protest asserts, in regard to the President's powers, as Executive Magistrate, is, that the general duty being imposed on him by the constitution, of taking care that the laws be faithfully executed, *he thereby becomes himself responsible for the conduct of every person employed in the Government;*" "for the entire action," as the paper expresses it, "of the executive department." This, sir, is very dangerous logic. I reject the inference altogether. No such responsibility, nor any thing like it, follows from the general provision of the Constitution, making it his duty to see the laws executed. If it did, we should have, in fact, but one officer in the whole Government. The President would be every body. And the protest assumes to the President this whole responsibility for every other officer, for the very purpose of making the President every body, of annihilating every thing like independence, responsibility, or *character* in all other public agents. The whole responsibility is assumed, in order that it may be more plausibly argued that all offi-

cers of Government are, not agents of the law, but the President's agents, and therefore responsible to him alone. If he be responsible for the conduct of all officers, and they be responsible to him only, then it may be maintained that such officers are but his own agents, his substitutes, his deputies. The first thing to be done, therefore, is to assume the responsibility for all; and this, you will perceive, sir, is done in the fullest manner, in the passages which I have read. Having thus assumed for the President the entire responsibility of the whole Government, the protest advances boldly to its conclusion, and claims, at once, absolute power over all individuals in office, as being merely the President's agents. This is the language: "The whole executive power being vested in the President, who is responsible for its exercise, it is a necessary consequence that he should have a right to employ agents of his own choice, to aid him in the performance of his duties, and to discharge them when he is no longer willing to be responsible for their acts."

'This, sir, completes the work. This handsomely rounds off the whole executive system of executive authority. First, the President has the whole responsibility; and, then, being thus responsible for all, he has, and ought to have, the whole power. We have heard of political *units*, and our American Executive, as here represented, is, indeed, a *unit*. We have a charmingly simple Gover ent! Instead of many officers in different departments, each having appropriate duties, and each responsible for his own duties, we are so fortunate as to have to deal with but one officer. The President carries on the Government; all the rest are but sub-contractors. Sir, whatever *name* we give him, we have but ONE EXECUTIVE OFFICER. A Briareus sits in the centre of our system, and with his hundred hands touches every thing, moves every thing, controls every thing. I ask, sir, is this republicanism? is this a Government of laws? is this legal responsibility?

'According to the protest, the very duties, which every officer under the Government performs, are the duties of the President himself. It says that the President has a right to employ *agents* of his *own choice*, to aid HIM in the performance of his duties.

'Mr. President, if these doctrines be true, it is idle for us any longer to talk about any such thing as a government of laws. We have no government of laws, not even the semblance or shadow of it; we have no legal responsibility. We have an Executive, consisting of one person, wielding all official power, and which is, to every effectual purpose, completely *irresponsible*. The President declares that he is "responsible for the entire action of the executive department." Responsible? What does he mean by being *responsible?* Does he mean *legal responsibility?* Certainly not. No such thing. Legal responsibility signifies *liability to punishment for misconduct or mal-administration*. But the protest does not mean that the President is liable to be impeached and punished, if a Secretary of State should commit treason, if a collector of the customs should be guilty of bribery, or if a Treasurer should embezzle the public money. It does not mean, and cannot mean, that he should be answerable for any such crime, or such delinquency. What, then, is its notion of that *responsibility*, which it says the President is under for all officers, and which authorizes him to consider all officers as his own personal agents? Sir, it is merely responsibility to public opinion. It is a liability to be blamed; it is the chance of becoming unpopular, the danger of losing a re-election. Nothing else is meant in the world. It is the hazard of failing in any attempt or enterprise of ambition. This is all the responsibility to which the doctrines of the protest hold the President subject.

It is precisely the *responsibility* under which Cromwell acted, when he dispersed Parliament, telling its members, not in so many words, indeed, that they disobeyed the will of their constituents, but telling them that the people were sick of them, and that he drove them out "for the glory of God, and the good of the nation." It is precisely the responsibility upon which Bonaparte broke up the popular assembly of France. I do not mean, sir, certainly, by these illustrations, to insinuate designs of violent usurpations against the President; far from it; but I do mean to maintain that such responsibility as that with which the protest clothes him, is no legal responsibility, no constitutional responsibility, no republican responsibility; but a mere liability to loss of office, loss of character, and loss of fame, if he shall choose to violate the laws, and overturn the liberties of the country. It is such a responsibility as leaves every thing in his discretion, and his pleasure.

Sir, it exceeds human belief that any man should put sentiments, such as this paper contains, into a public communication from the President to the Senate. They are sentiments which give us all one master. The protest asserts an absolute right to remove all persons from office, at pleasure; and for what reason? Because they are incapable? Because they are remiss, negligent, or inattentive? No, sir, these are not the reasons. But he may discharge them, one and all, simply because "he is no longer willing to be responsible for their acts!" It insists on an absolute right in the President

to *direct and control* every act of every officer of the Government, except the judges. It asserts this right of direct *control* over and over again. The President may go into the Treasury, among the auditors and comptrollers, and *direct* them how to settle every man's account; what abatements to make from one, what additions to another. He may go into the custom house, among collectors and appraisers, and may *control* estimates, reductions and appraisements. It is true that these officers are sworn to discharge the duties of their respective offices honestly and fairly, according to their *own* best abilities; it is true, that many of them are liable to indictment for official misconduct, and others responsible, in suits of individuals, for damages and penalties, if such official misconduct be proved; but notwithstanding all this, the protest avers, that all these officers are but the *President's agents*, that they are but aiding *him* in the discharge of *his* duties, that *he* is responsible for their conduct, and that they are removable at his will and pleasure. And it is under this view of his own authority, that the President calls the secretaries *his* secretaries, not once only but repeatedly. After half a century's administration of this Government, sir, after we have endeavored by statute upon statute, and by provision following provision, to define and limit official authority; to assign particular duties to particular public servants; to define those duties? to create penalties for their violation; to adjust accurately the responsibility of each agent, with his own powers and his own duties; to establish the prevalence of equal rule; to make the law, as far as possible, every thing, and individual will, as far as possible, nothing; after all this, the astounding assertion rings in our ears, that, throughout the whole range of official agency, in its smallest ramifications, as well as in its larger masses, there is but ONE RESPONSIBILITY, ONE DIRECTION, ONE WILL! True, indeed, is it, sir, if these sentiments be maintained, true, indeed, is it, that a President of the United States may well repeat, from Napoleon, what he repeated from Louis 14th, "I am the State."'

The speaker protests in turn against every mode of reasoning which the president adopts, and shows that they are fallacious, arbitrary, inconsistent with our whole system of government, and should be opposed by the nation as leading to an amalgamation of all authority in one person. It was a wholesome rebuke and should be a memento to presidents of the United States who may be elected hereafter, not to interfere with the prerogatives of the legislature. This speech was hailed as a proud refutation of executive assumption, and printed in various forms for the use of the people of the United States, and diffused among all classes of the community. This speech alone would, in the best days of ancient Republics, have given immortality to any stern and proud friend of liberty, and the rights of man, in his legislative capacity, if he had dared avow the doctrines they contained. Such continuous efforts are wearing upon the mind and corporeal faculties of man; and should not be considered as the mere business of the hour in the course of common duties. They are monuments on the high road of freedom that should not be assailed or destroyed by passing travellers.

The following is an abstract of Mr. Webster's speech, on the bill granting an indemnity to the citizens of the United States, for French spoliations on American commerce, prior to 1800, delivered January 12, 1835. This speech is full of sound principles and correct views, and is another proof of his being a thorough business man.

'Mr. Webster said, that before proceeding to the discussion of the bill, he felt it to be his duty to take notice of an occurrence, such as did not ordinarily draw from him any remarks in his place in the Senate. Some time last March, said Mr. W., there appeared in a newspaper published at Albany, in the State of New York, a letter purporting to have been written to the editor from Washington, in which the writer charged me with having a direct personal interest in these claims. I am ashamed to say, that this letter was written by a member of Congress. The assertion, like many others which I have not felt it to be my duty to take any notice of, was wholly and entirely false and malicious. I have not the slightest interest in these claims, or any one of them. I have never been conferred with or retained by any one, or spoken to as counsel for any of them, in the course of my life. No member of the Senate is more entirely free from any personal connexion with the claims than I am. It has been the pleasure of the Senate, on several occasions, to place me on a committee to which these petitions have been referred. I have, on those occasions, examined the subject, with a desire to acquit myself conscientiously, by exercising my best judgment upon the claims, as questions of mere right and justice.

'At the last session, an honorable member of the Senate, now in a public capacity at St. Petersburg, introduced a bill for the relief of the petitioners, and moved the appointment of a committee, declining himself to be a member of that committee. Without any wish of mine, and indeed without my knowledge, for I was not then in the city, the Senate was pleased to place me at the head of that committee. I thought it my duty then to introduce the bill which was now again under consideration.

This, said Mr. W., is no party question; it involves no party principles; affects no

party interests; seeks no party ends or objects—and as it is a question of private right and justice, it would be a flagrant wrong and injustice to attempt to give to it, any where, the character of a party measure. The petitioners, the sufferers under the French spoliations, belong to all parties. Gentlemen of distinction, of all parties, have at different times maintained the justice of the claim. The present bill is intended for the equal relief of all sufferers; and if the measure shall become a party measure, I, for one, shall not pursue it. It will be wiser to leave it, till better auspices shall appear.

'The question, sir, involved in this case, is essentially a judicial question. It is not a question of public policy, but a question of private right; a question between the Government and the petitioners—and, as the Government is to be judge in its own case, it would seem to be the duty of its members to examine the subject with the most scrupulous good faith, and the most solicitous desire to do justice.

'There is a propriety in commencing the examination of these claims in the Senate, because it was the Senate which, by its amendment of the treaty of 1800, and its subsequent ratification of that treaty, and its recognition of the declaration of the French Government, effectually released the claims as against France, and for ever cut off the petitioners from all hopes of redress from that quarter. The claims, as claims against our own Government, have their foundation in these acts of the Senate itself; and it may certainly be expected that the Senate will consider the effect of its own proceedings on private right, and private interests, with that candor and justice which belong to its high character.

'It ought not to be objected to these petitioners, that their claim is old, or that they are now reviving any thing which has heretofore been abandoned. There has been no delay which is not reasonably accounted for. The treaty, by which the claimants say their claims on France for these captures and confiscations were released, was concluded in 1800. They immediately applied to Congress for indemnity, as will be seen by the report made in 1802, in the House of Representatives, by a committee of which a distinguished member from Virginia, not now living, (Mr. Giles,) was chairman.

'In 1807, on the petition of sundry merchants and others, citizens of Charleston, in South Carolina, a Committee of the House of Representatives, of which Mr. Marion of that State, was chairman, made a report, declaring that the Committee was of opinion that the government of the United States was bound to indemnify the claimants. But at this time our affairs with the European Powers at war, had become exceedingly embarrassed; our government had felt itself compelled to withdraw our commerce from the ocean; and it was not until after the conclusion of the war of 1812, and after the general pacification of Europe, that a suitable opportunity occurred of presenting the subject again to the serious consideration of Congress. From that time the petitioners have been constantly before us, and the period has at length arrived proper for a final decision of their case.

'Another objection, sir, has been urged against these claims, well calculated to diminish the favor with which they might otherwise be received, and which is without any substantial foundation in fact. It is, that a great portion of them has been bought up, as a matter of speculation, and it is now holden by these purchasers. It has even been said, I think, on the floor of the Senate, that nine-tenths, or ninety-hundredths, of all the claims, are owned by speculators.

'Such unfounded statements are not only wholly unjust towards these petitioners themselves, but they do great mischief to other interests. I have observed that a French gentleman of distinction, formerly a resident in this country, is represented in the public newspapers as having declined the offer of a seat in the French administration, on the ground that he could not support the American treaty, and he could not support the treaty, because he had learned, or heard, while in America, that the claims were no longer the property of the original sufferers, but had passed into unworthy hands. If any such thing has been learned in the United States, it has been learned from sources entirely incorrect. The general fact is not so; and this prejudice, thus operating on a great national interest—an interest, in regard to which, we are in danger of being seriously embroiled with a foreign State—was created, doubtless, by the same incorrect and unfounded assertions which have been made relative to this other class of claims.

'In regard to both classes, and to all classes of claims of American citizens or foreign Governments, the statement is at variance with the facts. Those who make it, have no proof of it. On the contrary, incontrovertible evidence exists of the truth of the very reverse of this statement. The claims against France, since 1800, are now in the course of adjudication. They are all, or very nearly all, presented to the proper tribunal. Proofs accompany them, and the rules of the tribunal require that, in each case, the true ownership should be fully and exactly set out, on oath; and be proved by the papers,

vouchers, and other evidence. Now, sir, if any man is acquainted, or will make himself acquainted, with the proceedings of this Tribunal, so far as to see who are the parties claiming the indemnity, he will see the absolute and enormous error, of those who represent these claims, to be owned, in great part, by speculators.

'The truth is, sir, that these claims, as well those since 1800, as before, are owned and possessed by the original sufferers, with such changes only as happen in regard to all other property. The original owner of ship and cargo; his representative, where such owner is dead; underwriters, who have paid losses on account of captures and confiscations; and creditors of insolvents and bankrupts, who were interested in the claims;—these are the descriptions of persons, who, in all these cases, own vastly the larger portion of the claims. This is true of the claims on Spain, as is most manifest from the proceedings of the Commissioners under the Spanish Treaty. It is true of the claims on France arising since 1800, as is equally manifest by the proceedings of the Commissioners now sitting; and it is equally true of the claims which are the subject of this discussion, and provided for in this bill. In some instances, claims have been assigned, from one to another, in the settlement of family affairs. They have been transferred, in other instances, to secure, or to pay debts; they have been transferred, sometimes, in the settlement of insurance accounts; and it is probable there are a few cases, in which the necessities of the holders have compelled them to sell them. But nothing can be further from the truth than that they have been the general objects of purchase and sale, and that they are now holden mainly by purchasers from the original owners. They have been compared to the unfounded debt. But that consisted in scrip, of fixed amount, and which has passed from hand to hand by delivery. These claims cannot so pass from hand to hand. In each case, not only the value but the amount is uncertain. Whether there be any claim, is, in each case, a matter for investigation and proof; and so is the amount, when the justice of the claim itself is established. These circumstances are of themselves quite sufficient to prevent the easy and frequent transfer of the claims from hand to hand. They would lead us to expect that to happen, which actually has happened; and that is, that the claims remain with their original owners, and their legal heirs and representatives, with such exceptions as I have already mentioned. As to the portion of the claims now owned by underwriters, it can hardly be necessary to say, that they stand on the same equity and justice, as if possessed and presented by the owners of ships and goods. There is no more universal maxim of law and justice throughout the civilized and commercial world, than that an underwriter, who has paid a loss on ships or merchandise to the owner, is entitled to whatever may be received from the property. His right accrues by the very act of payment; and if the property, or its proceeds, be afterwards recovered, in the whole or in part, whether the recovery be from the sea, from captors, or from the justice of foreign States, such recovery is for the benefit of the underwriter. Any attempt, therefore, to prejudice these claims, on the ground that many of them belong to Insurance Companies, or other underwriters, is at war with the first principles of justice.

'Mr. W. then proceeded to give a general view of the history and character of these claims. He concluded his speech with the following remarks:—

'It only remains to show the reasonableness of the amount which the bill proposes to distribute. And this, it must be admitted, can only be fixed by estimate, and this estimate may be formed in various ways. So far as can be learned, from official reports, there are something more than six hundred vessels, with their cargoes, which will be supposed to form claims under this bill. Some of them, it is probable, may not be good claims; but a very great majority of that number will be no doubt just and fair cases.

'Then, the question is, what may be regarded as a just average value of each vessel and cargo? and this question is answered, in a manner as satisfactory as the nature of the case allows, by ascertaining the average value of vessels and cargoes, for which compensation has been awarded under the treaty with Spain. That average was 16,800 dollars, for each vessel and cargo; and taking the cases coming under this bill to be of the same average value, the whole amount of loss would exceed ten millions of dollars, without interest.

'On this estimate, it seems not unreasonable to allow the sum of five millions, in full satisfaction for all claims. There is no ground to suppose that the claimants will receive, out of this sum, a greater rate of indemnity than claimants have received who had claims against Spain, or than other claimants against France, whose claims have not been relinquished, because arising since 1800, will receive, under the provisions of the late French treaty.

'Mr. President, I have performed the duty of explaining this case to the Senate, as I understood it. I believe the claims to be as just as were ever presented to any Government. I think they constitute an honest and well founded debt, due by the

United States to these claimants; a debt which, I am persuaded, the justice of the Government, and the justice of the country, will, one day, both acknowledge and honorably discharge.

'The bill was finally passed in the Senate, by a vote of 25 to 20.'

We close our volume with this remark, that it would not be within the scope of our intentions to mention all the speeches or the exertions of Mr. Webster in the great cause of his country's welfare. Ever since he has been in Congress he has been a watchman on the ramparts of the Constitution, armed, from head to foot to defend its out-works against external foes, and at the same time has kept a most vigilant eye upon those who might be ready to surrender the citadel, traitors to their trust. He has not unbuckled his armour, nor reposed, but in his harness, during the whole siege; but, like the gallant Knights of Malta, has unfurled his banner, which is that of the Constitution, and waving it high, has cried aloud, night and day, "by this we conquer." His followers have never for a moment doubted his courage, or questioned his political prowess. His political enemies, in the pride of national glory, have admired his talents, and his friends have had no adequate words for their affection and gratitude. It has been one majestic and noble flow onward, as that of the Mississippi from its source to the sea, ever since he first appeared as a representative of his native State New Hampshire, until this hour, when he honors the State of his adoption Massachusetts. She is the able preserver of his fame. He stands however before the world by no little local glimmerings of light, but elevated by great principles, rich in praiseworthy deeds, and shining, and burning by his own mental lustre and patriotic fires. He fills a large space not only with us, but abroad, wherever great thoughts, and efforts in a good cause, the cause of national liberty, are regarded among men. If the voice of wisdom and the warning of prophecy are held in estimation, Mr. Webster should be placed among the political seers, who should not be banished with Aristides in the spirit of injustice, but find like Numa the gratitude of a sagacious people.

THE END.

W 733

ANALYSIS.

Early Life and Education—Practice and Success as a Lawyer—Elected to Congress—Settles in Boston—Trial of the Kennistons. Dartmouth College Case—Speech on the Resolution relative to oaths of office in the Massachusetts State Convention—Delivers an Oration before the Pilgrim Society at Plymouth. Speech in Congress on the Greek Question. Bunker Hill Oration—Speech in Faneuil Hall in favour of the Union—Eulogy on Adams and Jefferson—Trial of Judge Prescott—Speech on that occasion. Panama Mission—Speech on that Resolution. Speech in favour of the Bill for the Relief of certain Officers of the Revolution—Visit to Nantucket—Address before the Boston Mechanic's Institution. Sketch of the Life of Ezekiel Webster. REPLY TO MR. HAYNE. Letter to Rev. Louis Dwight on Imprisonment for Debt. Public Dinner in New York—Address on that Occasion. Speech in favour of Rechartering the U. S. Bank in 1832. Reply to Mr. Calhoun, Feb. 1833—Tour through the Western States—Report as Chairman of the Committee on Finance, on the Removal of the Deposites. SPEECH ON THE PROTEST. Speech on the French Spoliation Bill.

WERT
BOOKBINDING
Grantsville Pa.
March Apr 1985